

In The Matter Of:
Illinois Environmental Protection Agency
Public Hearing for Midwest Generation

Waukegan Generation Station NPDES Permit
July 31, 2013

Marzullo Reporting Agency
345 North LaSalle, 1605
Chicago, IL 60654
(312) 321-9365

PUBLIC HEARING FOR MIDWEST GENERATION
WAUKEGAN GENERATING STATION NPDES PERMIT

July 31st, 2013

6:30 a.m.

The Report of Proceedings had in the
hearing of the above-entitled cause before HEARING OFFICER
DEAN STUDER, taken before PAMELA A. MARZULLO, a Certified
Shorthand Reporter and Notary Public in and for the County
of Cook and State of Illinois, at 95 Jack Benny Drive,
Waukegan, Illinois, on July 31st, 2013, at the hour of
approximately 6:30 a.m.

1 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

2 MR. DEAN STUDER, Hearing Officer

3 MR. JAIME RABINS, Permit Writer

4 MS. DEBORAH J. WILLIAMS, Assistant Counsel

5 MR. LYNN E. DUNAWAY, P.G., Environmental Specialist
6 Groundwater Section, Bureau of
Water

7 MS. BARB LIEBEROFF, Community Relations Coordinator, Office
8 of Community relations

9 MR. DARIN LeCRONE, P.E., Manager, Industrial Unit, Permit
Section, Division of Water

10 MR. SCOTT A. TWAIT, Environmental Protection Engineer
Standards section, Bureau of Water

11 MR. RICARDO NG, Interpreter

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1 HEARING OFFICER STUDER: Good evening. Before
2 we start, I wish to point out we have a Spanish
3 interpreter here this evening. If you desire to use
4 the Spanish interpreter, please make your way over
5 to Ricardo.

6 Ricardo works for the Illinois EPA and the
7 Chicago suburban field office in Des Plaines.

8 Ricardo, I'm not going to stop, or I'm going to stop
9 at this point, and I'm going to ask you to interpret
10 those few sentences into Spanish. If you would
11 please stand up and do so.

12 (WHEREUPON, the proceedings were
13 translated in Spanish."

14 HEARING OFFICER STUDER: Thank you. We'll go
15 ahead and go on the record, if we've not already
16 done so.

17 Good evening. My name is Dean Studer, and
18 I'm the Hearing Officer for the Illinois
19 Environmental Protection Agency. On behalf of
20 Director Lisa Bonnett, I welcome you to tonight's
21 hearing.

22 My purpose tonight is to insure that this
23 proceeding runs efficiently and according to rules.
24 At this point, I need to point out two errors that

1 the Illinois EPA has discovered in the hearing
2 notice for this proceeding.

3 The first is that the NPDES permit numbers
4 given in the hearing notice are incorrect in two
5 places. The hearing notice incorrectly gives two
6 different NPDES permit numbers. Obviously only one
7 of these is correct.

8 The correct NPDES permit number for this
9 facility is IL0002259. Again, the correct NPDES
10 number is IL0002259.

11 Secondly, the hearing notice erroneously
12 indicates that an anti-degradation analysis for the
13 permit renewal for this facility is available.
14 There is no anti-degradation analysis for the
15 renewal of this permit.

16 Illinois Pollution Control Board
17 Regulations at 35 Illinois Administrative Code
18 302.105 requires such an analysis when there is an
19 increase in loading of pollutants to a receiving
20 water.

21 No increases in pollutant loading are
22 expected at this facility, so no anti-degradation
23 analysis for the renewal action is required and none
24 has been performed.

1 When the notice was prepared, the template
2 used from another facility, and apparently there was
3 some information that was contained in that
4 template. As a result, some erroneous information
5 was left in the final hearing notice. Illinois EPA
6 regrets these errors and apologizes for any
7 confusion or inconvenience that they may have
8 caused.

9 Corrected hearing notices have been
10 prepared. They are available on the back
11 registration table. The correct hearing notice has
12 also been posted on the Illinois EPA web page for
13 this proceeding.

14 UNKNOWN SPEAKER: Will you entertain a question
15 concerning the anti-degradation rates?

16 HEARING OFFICER STUDER: Yes, we will entertain
17 questions on that, yep. We will do that in the
18 process of this hearing, and we'll do that when I
19 open the floor for public comments.

20 If you have completed a registration card,
21 and completed on the card that you desire to speak,
22 your name will be called to come forward, and you
23 can ask the question at that time.

24 This is an informational hearing before

1 the Illinois EPA in the matter of renewal of
2 national pollutant discharge elimination system
3 permit for Midwest Generation Waukegan Generation
4 Station.

5 The Illinois EPA has made a preliminary
6 determination that this project meets the
7 requirements for obtaining a permit and has prepared
8 a draft permit for review. Authority for the
9 Illinois EPA to reissue this permit is contained in
10 Section 39 of the Illinois Environmental Protection
11 Act, that's 415 Illinois Compiled Statute 5/39.

12 In pertinent part, this section reads, "It
13 shall be the duty of the Agency to issue such a
14 permit upon proof by the applicant that the
15 facility, equipment, vehicle, vessel or aircraft
16 will not cause a violation of this act or
17 regulations hereunder."

18 The decision by the Agency in this matter
19 will be based upon the technical merits of the
20 application, as it relates to compliance with this
21 statute and regulations promulgated under it.

22 The Agency decision will not be based on
23 how many people desire for the permit to be issued,
24 or how many people desire for the permit not to be

1 issued, but rather on compliance with the law and
2 regulation.

3 Issues relevant to tonight's hearing
4 include compliance with the requirements of the
5 Clean Water Act and the rules set forth in 35
6 Illinois Administrative Code Subtitle C, potential
7 impacts to the receiving waters from the discharge
8 and the water quality in the receiving waters.

9 I also wish to point out that while this
10 is a power station, issues dealing with air
11 pollution and emission are not the subject of this
12 hearing.

13 Issues involving air pollution, emissions
14 control and respiratory diseases will not be
15 discussed at the hearing this evening, unless they
16 have a direct bearing on the NPDES permit on
17 wastewater control equipment, or some other aspect
18 associated with water pollution control.

19 If the subject matter of your comments
20 begin to direct into these areas, I may interrupt
21 you. This is a water permit hearing. This is not
22 an air permit hearing, and let's try and keep the
23 issues pertaining to the NPDES permit.

24 The Illinois EPA is holding this hearing

1 for the purpose of accepting comments from the
2 public on this draft water discharge permit. The
3 public hearing is being held under the provisions of
4 Illinois EPA's procedures for permit and closure
5 plan hearing, which can be found in 35 Illinois
6 Administrative Code, Part 166, Subpart A; and in
7 accordance with the requirements of the Illinois
8 Pollution Control Board and NPDES regulations, and
9 those are found at 35 Illinois Administrative Code
10 309.115 through 309.119.

11 I want to make sure before I go any
12 further, can you all hear me in the back?

13 Copies of the regulations that I just
14 cited, those are available at the Illinois Pollution
15 Control Board website at www.ipcb.state.il.us; or if
16 you do not have easy access to the web, you can
17 contact me, and I will get a copy for you.

18 An informational hearing means exactly
19 that. This is strictly an informational hearing.
20 It is an opportunity for you to provide information
21 to the Illinois EPA concerning the permit. This is
22 not a contested case hearing.

23 I would like to explain tonight how this
24 hearing is going to proceed. First, I will have the

1 Illinois EPA panel introduce themselves and provide
2 a sentence or two regarding their involvement in the
3 permit review process.

4 This will be followed by further
5 instructions as to how statements and comments will
6 be taken during this hearing, and as to appropriate
7 conduct during this hearing.

8 Following these additional instructions, I
9 will allow the public to speak, starting with the
10 permit applicant making a brief opening statement.

11 If you have not signed the registration
12 card at this point, please see Barb Lieberoff at the
13 registration table, and she will provide you with
14 one. You may indicate on the card that you would
15 like to make oral comments tonight.

16 Everyone completing a card legibly, or
17 providing their business card to Ms. Lieberoff at
18 the registration table, or for those submitting
19 written comments during the comment period, they
20 will all be notified when the Illinois EPA reaches a
21 final decision in this matter.

22 A responsiveness summary will be made
23 available at that time. In the responsiveness
24 summary, the Illinois EPA will respond to all

1 relevant and significant issues that were raised at
2 this hearing, or were submitted to me prior to the
3 close of the comment period.

4 The comment period in this matter will
5 close on August 30th, 2013. I will accept written
6 comments, as long as they are post marked by
7 August 30th.

8 Illinois EPA is committed to resolving
9 outstanding issues and reaching a final decision in
10 this matter in an expeditious manner. However, the
11 actual decision date in this matter will depend on a
12 number of factors, including the number of comments
13 received, the substantive content of those comments,
14 staffing considerations, as well as other factors.

15 During tonight's hearing, and during the
16 comment period, relevant comments, documents and
17 data will also be placed into the hearing record as
18 exhibits.

19 Please send all written documents or data
20 to my attention at Dean Studer, and that last name
21 is spelled s-t-u-d-e-r, Hearing Officer, regarding
22 Midwest Generation/Waukegan NPDES Illinois EPA, 1021
23 North Grand Avenue East, P.O. Box 19276,
24 Springfield, Illinois, 62794-9276.

1 This address is also listed on the public
2 notice for this hearing. I believe hearing notices
3 are also available at the registration table.
4 You'll find the address and contact information also
5 on that.

6 I remind everyone to please reference
7 Midwest Generation/Waukegan NPDES, or the correct
8 NPDES permit number, which is IL0002259 on the
9 comments, and that way I can insure that these will
10 become part of this hearing record.

11 In addition, E-mail comments will be
12 accepted if sent to epa.publichearingcom. That is
13 e-p-a dot p-u-b-l-i-c h-e-a-r-i-n-g c-o-m
14 @illinois.gov. All E-mail comments should contain
15 the words "Midwest Generation/Waukegan NPDES
16 permit," or "IL0002259" in the subject line. This
17 will also help to insure your comments become part
18 of this particular hearing record.

19 Please make sure that those words in the
20 subject line are spelled correctly, as E-mails are
21 electronically sorted and distributed and may not
22 make it into the record, if the words on the subject
23 line -- in the subject line, excuse me, are
24 misspelled.

1 When our E-mail arrives, the system should
2 send you an automated reply, if the E-mail was
3 received before the comment period ends, and the
4 E-mail has been properly sorted and distributed.

5 Please note that the server can become
6 quite busy in the minutes before the record closes,
7 so you may want to take this into account, if you
8 are submitting E-mail comments, as electronic
9 comments received at or after the stroke of
10 midnight, as the date changes from August 30th to
11 August 31, will not be considered timely filed.

12 I will now ask the Illinois EPA panel to
13 introduce themselves, and provide a sentence or two
14 regarding their role in the permit review process.

15 MR. TWAIT: My name is Scott Twait. I work for
16 Water Quality Standards Section.

17 MR. DUNAWAY: My name is Lynn Dunaway. I work
18 in the Ground Water Section at IEPA.

19 MR. RABINS: I'm Jim Rabbins. I'm the permit
20 writer. I review the application and draft the
21 permit.

22 MS. WILLIAMS: I'm Debby Williams from the
23 Division of Legal Counsel, and I advise the permit
24 writers on the legal issues that come up.

1 MR. LeCRONE: And I'm Darin LeCrone. I'm the
2 Industrial Unit Manager in the Water Pollution
3 Control Permit Section.

4 HEARING OFFICER STUDER: I'm going to ask the
5 hearing panel members when you speak, that you do
6 project your voice out. I do want to make sure
7 everyone in the room can hear you. So, if you speak
8 softly, when you are responding to an issue, I may
9 interrupt you and ask you to speak up.

10 While the issues raised tonight may,
11 indeed, be heart-felt concerns to many of us in
12 attendance, applause is not appropriate during the
13 course of this hearing. On a similar note, booing,
14 hissing and jeering are also not appropriate and
15 will not be allowed during this hearing.

16 Secondly, statements made tonight are to
17 relate to the issues involved with the reissuance of
18 this water discharge permit. Specifically
19 statements and comments that are of a personal
20 nature, or reflect on the character or motive of a
21 person or group of people, are not appropriate in
22 this hearing.

23 If statements or comments begin to drift
24 into this area, I may interrupt the person speaking

1 and ask that they proceed to the next relevant
2 issue. As Hearing Officer, I do intend to treat
3 everyone here tonight in a respectful and
4 professional manner. I ask that the public and
5 members of the hearing panel do the same.

6 If the conduct of a person attending this
7 hearing should become unruly, I am authorized to
8 adjourn this hearing, should the actions warrant.
9 In such a case, the Illinois EPA will still accept
10 written comments through the close of the comment
11 period.

12 Since we have a limited time in which to
13 conduct this hearing, Illinois EPA staff members
14 will be responding to issues primarily for
15 clarification purposes. We are here tonight
16 primarily to listen to environmental issues related
17 to the NPDES permit.

18 You may disagree with or object to some of
19 the statements and comments made tonight, but this
20 is a public hearing, and everyone has a right to
21 express their comments on this matter.

22 Again, written comments are given the same
23 consideration as oral comments received during this
24 hearing and may be submitted to Illinois EPA at any

1 time within the public comment period, which ends on
2 August 30th, 2013.

3 Although we will continue to accept
4 comments through that date, tonight is the only time
5 that we will accept oral comments. Any person who
6 wishes to make an oral comment may do so, as long as
7 the statements are relevant to the issues at hand
8 and time allowed.

9 If you have lengthy comments, please
10 consider giving only a summary of those comments
11 during this hearing, and then you may submit
12 comments in their entirety to me in writing before
13 the close of the comment period, and I will insure
14 they are included in the hearing record as an
15 exhibit.

16 Please keep your comments relevant to the
17 issues regarding the NPDES permit. If your comments
18 fall outside the scope of this hearing, I may ask
19 that you proceed to your next issue.

20 For the purpose of allowing everyone to
21 have a chance to comment, and to insure that we
22 conduct this hearing in a timely fashion, I will
23 impose a time limit of four minutes per speaker.

24 After everyone has indicated -- that has

1 indicated a desire to speak on the hearing card,
2 after they have been afforded that opportunity, and
3 provided time still permits, I may allow those who
4 initially did not desire to speak to do so.

5 If time still permits, I may then allow
6 those who initially ran out of time to speak again.
7 In the event that we cannot accommodate everyone who
8 wishes to make oral comments this evening, you are
9 asked to submit your comments to us in writing.
10 Again, written comments are given the same weight as
11 comments made orally at this hearing.

12 I stress that we want to avoid unnecessary
13 repetition. Once a point is made, it makes no
14 difference if the point is made once or whether it
15 is made 99 times. It will be considered, and it
16 will be reflected only once in the responsiveness
17 summary.

18 The final decision of the Illinois EPA
19 will not be based on how many people support or
20 oppose this permit, but rather upon the application
21 and the supporting documents indicating the facility
22 will comply with applicable laws, regulations and
23 requirements.

24 We have a court reporter here who is

1 taking a record of these proceedings for the purpose
2 of us putting together our administrative record.
3 Therefore, for her benefit, please keep the general
4 background noise in the room to a minimum, so that
5 she can hear everything that is said.

6 Illinois EPA will post the transcript for
7 this hearing on our web page in the same general
8 place where the hearing notice, draft permit and
9 other documents in this matter have been posted.

10 It is my desire to have this posted in
11 about a week to -- excuse me, in two to
12 two-and-a-half weeks following the close of the
13 hearing; however, the actual posting date will
14 depend on a number of factors, including primarily
15 when I get the transcript back from the court
16 reporter.

17 When it is your turn to speak, I will call
18 your name. Please come forward, and if you would
19 stand right in the center and just speak to the
20 hearing panel here, I ask that you state your name,
21 for the record, along with any governmental body,
22 organization or association that you are
23 representing.

24 If you are not representing a governmental

1 body or organization or association, you may simply
2 indicate that you are either a concerned citizen or
3 a member of the public. For the benefit of the
4 court reporter, I ask that you spell your last name.
5 If there are alternate spellings of your first name,
6 you may also spell your first name.

7 Once you spell your name, I will start
8 timing you, and you will have four minutes to
9 complete your comments. I ask that while you are
10 speaking, that you direct your attention to the
11 hearing panel and to the court reporter, to insure
12 that an accurate record of your comments can be
13 made.

14 Prolong dialogue with members of the
15 hearing panel, or with others here in attendance
16 this evening, will not be permitted. Comments
17 directed to members of the audience are also not
18 allowed.

19 Again, I remind everyone that the focus of
20 this hearing is the environmental issues associated
21 with the NPDES permit.

22 Are there any questions regarding how I
23 will be conducting this hearing this evening? Let
24 the record indicate that no one raised their hand.

1 I will now go ahead and open the hearing
2 for comments. The first person is Mark Nagel. If
3 he would come forward to the front and stand in the
4 middle.

5 If you would state your name, any
6 organization that you are representing, and spell
7 your last name for the court reporter, please.

8 UNKNOWN SPEAKER: Thank you, Hearing Officer
9 Studer. My name is Mark Nagel, M-a-r-k N-a-g-e-l.
10 I'm Director of Waukegan Generating Station operated
11 by Midwest Generation.

12 I appreciate the opportunity and comments
13 at this hearing. Our company will continue to
14 provide written comments on provisions of the
15 Waukegan NPDES permit through the ongoing review
16 process being managed by the Illinois EPA.

17 On behalf of my 120 colleagues at Waukegan
18 station, and the 670 men and women who work at all
19 the Midwest Generation's facilities in Illinois, I
20 first and foremost want to state for the public
21 record that we have an ironclad commitment to
22 environmental responsibilities and compliance in the
23 way we operate our plants.

24 NPDES permits focus on the use and

1 management of water at our site, including
2 protection of the waterways from which we withdraw
3 water to cool our generating units, and the
4 management of the ponds that are used for temporary
5 storage of coal ash produced by the combustion
6 process that generates electricity.

7 Water management is a significant
8 around-the-clock task at Waukegan station, and we
9 have a record of pro-active and preventive actions
10 that demonstrate how seriously we take this area of
11 environmental compliance.

12 We are required to monitor for a long list
13 of parameters as part of the NPDES permit renewal
14 process. This data is provided to the Illinois EPA
15 for review. For most of our water discharges, these
16 parameters are not found to be present at all.

17 The vast majority of water discharge by
18 Waukegan Station is cooling water, which does not
19 come into contact with anything within the station,
20 except the outside of stainless steel tubes for
21 cooling purposes only.

22 We have a wastewater treatment plant,
23 which is an integral part of plant operations and
24 treats wastewater before it's discharged into Lake

1 Michigan, in order to comply with all permit limits.

2 Our bottom ash ponds have thick
3 impermeable liners, and we have shown through
4 monitoring and data collection that they are not
5 leaking. A few years after we acquired Waukegan
6 Station in 1999, we undertook a voluntary preventive
7 project to install new pond liners. These ponds are
8 not final ash disposal sites.

9 Bottom ash is removed from that every
10 year, in accordance with permits issued by the state
11 and sent for beneficial reuse. Waukegan's fly ash
12 is handled dry in an instructive way for appropriate
13 disposal.

14 Mercury is captured by our air pollution
15 control equipment and collected with the fly ash.
16 In fact, Waukegan Station was one of the first power
17 plants in the country to install controls for
18 mercury emissions back in 2008. The Mercury and fly
19 ash do not come into contact with any water and are
20 not part of the wastewater discharge.

21 Furthermore, no mercury has been found in
22 wastewater discharge or in the monitoring wells
23 surrounding those ponds. We take compliance with
24 regulations for our water use and management very

1 seriously and have operated under NPDES permit
2 regulations since beginning operations here in
3 Waukegan.

4 The current regulations are detailed and
5 demanding, and the requirements get tougher under
6 the draft permit that's the subject of tonight's
7 hearing.

8 We are here tonight to listen respectfully
9 to public comment, and we will continue our work
10 with the Agency on the issuance of the renewed NPDES
11 permits that are both protective of the environment,
12 and fair and reasonable for our operations.

13 A significant number of our employees and
14 their families live in this immediate area. They
15 take pride in our operations, our outstanding safety
16 record and exemplary environmental stewardship. On
17 their behalf, we will continue working to be a good
18 neighbor, and insure that environmental compliance
19 is a top priority every hour of every day. Thank
20 you.

21 HEARING OFFICER STUDER: Thank you, Mr. Nagel.
22 I received a request that rather than have the
23 speaker have his back toward you, that it would be
24 easier for those in the audience to hear if perhaps

1 they face sideways. So, I think that is probably a
2 much better idea, and I appreciate whoever made that
3 suggestion. Thank you, and we will go accordingly.

4 If you are out there, and you cannot hear
5 a speaker, please raise your hand, because I do want
6 to make sure that everyone in the room has an
7 opportunity to hear what was said.

8 Likewise, if you cannot hear a response,
9 please raise your hand and let me know, so that we
10 can have the person that is speaking speak up.
11 Again, I want to stress I do want everyone in the
12 room to hear what's going on.

13 The first person that I have is Curt
14 Volkmann. Come forward and face the side. That's
15 fine. That works good. I appreciate that.

16 MR. VOLKMANN: My name is Curt, C-u-r-t,
17 Volkmann. V, as in Victor, o-l-k-m-a-n-n, and I'm
18 resident of Lake Forest, which is a community just
19 south of Waukegan.

20 I'm here tonight to urge you to strengthen
21 the draft water pollution permit for the coal plant
22 so that there are proper paths or impacts that can't
23 harm me, my family, my community and our
24 environment.

1 I know you're going to hear from a lot of
2 people tonight, but I hope to leave you remembering
3 three number: 8, 6-and-a-half million, and 99.
4 I'll explain in a minute.

5 As I said, I am a resident of Lake Forest
6 where we draw our drinking water from two intake
7 pipes that are approximately eight miles south of
8 the coal plant.

9 With the frequent north-to-south flow of
10 the water on the west side of Lake Michigan, there's
11 a strong likelihood that any contaminants that come
12 from the coal ash ponds can find their way into our
13 drinking water supply.

14 Lake Forest isn't alone. Six-and-a-half
15 million Illinois residents, that's more than half of
16 the state's population, get their drinking water
17 from Lake Michigan.

18 Furthermore, as you may know, the
19 retention time, which is the time it takes for a
20 contaminant to naturally cycle out of Lake Michigan,
21 is 99 years. This means that any mercury or
22 arsenic, or any other contaminant that might come
23 from the coal ash that enters the water today, will
24 be there for my great, great grand kids to deal

1 with.

2 The Great Lakes and their various eco
3 systems are under tremendous stress, from warming
4 temperatures, invasive species and a wide variety of
5 pollutants. We urgently need all relevant state and
6 federal agencies to step up their game to preserve
7 and protect these precious natural resources.

8 Specifically, I request tonight for the
9 Illinois EPA to strengthen this permit in four ways:
10 Number one, strengthen the coal ash pollution limits
11 that the U.S. EPA has already determined are
12 inadequate.

13 This plant should be required to use the
14 best technology available to dry handle the waste
15 from the fly and bottom ash ponds and to use
16 evaporation treatment for scrubber sledge waste.
17 These zero liquid discharge technologies will
18 eliminate the release of most of the
19 highly-contaminated wastewater.

20 Number two, please include measures to
21 address the ground water contamination that exists
22 near the plant.

23 Number three, please review the Lake
24 Michigan Thermal Water Quality Standards to insure

1 the coal plant is not harming water quality and
2 aquatic life. And number four, please take steps to
3 minimize the fish kills from the plant's intake
4 pipes.

5 To repeat, we in Lake Forest get our
6 drinking water from intake pipes eight miles south
7 of this coal plant. Six-and-a-half million other
8 residents in Illinois get their drinking water from
9 Lake Michigan; and whatever gets dumped into Lake
10 Michigan today, will be there for 99 years.

11 Thanks in advance for strengthening this
12 permit.

13 HEARING OFFICER STUDER: Thank you. Mildred
14 Leonard.

15 MS. LEONARD: Hi. My name is Mildred Leonard,
16 and I'm not with an organization. I live in
17 Waukegan's.

18 HEARING OFFICER STUDER: Can I ask you to stand
19 over here? That way the court reporter can see you
20 while you are speaking as well. If you would spell
21 your last name also.

22 MS. LEONARD: Leonard, L-e-o-n-a-r-d, and I'm
23 not with any organization. I live in Waukegan, and
24 I have some comments and then some questions.

1 HEARING OFFICER STUDER: Okay.

2 MS. LEONARD: Or a comment and question. I'm
3 looking specifically at the parameters of I would
4 say chemicals arsenic, barium, cadmium, copper
5 cyanide, lead, silver and zinc that are in this
6 discharge, and so I'm concerned.

7 I'm not a chemist or an attorney. I am
8 concerned how these standards decide upon, how this
9 was considered to be safe.

10 Sometimes we find things later on that
11 science changes and we find some of the things, for
12 example, we had many problems with mercury,
13 nitrogen, asbestos in this area, how the science as
14 to this is supposed to be safe.

15 In addition to this, saying that this is
16 the existing science, and I'm not sure how this will
17 be determined, when I hear that congress intends to
18 cut fund to get EPA, how do you intend to monitor
19 and enforce these standards, if your budget is
20 reduced? Thank you.

21 MR. TWAIT: I can talk a little bit where the
22 water quality standards come from. The U.S. EPA
23 produces national criteria documents, and they talk
24 about the toxicity of these parameters; and U.S. EPA

1 or Illinois EPA has adopted some of those, and we
2 take a look at those in a triennial review to see if
3 they need to be updated.

4 MS. LEONARD: And the question was: How do you
5 intend to monitor and enforce the possibility of
6 having a reduced budget?

7 MR. TWAIT: The monitoring is done by Midwest
8 Generation as part of their permit, and our
9 compliance people look at that data.

10 HEARING OFFICER STUDER: Thank you, Ms Leonard.
11 Jim Bland.

12 MR. BLAND: I wanted to talk a little bit about
13 Lake Michigan before we talk explicitly about the
14 permit.

15 HEARING OFFICER STUDER: Could you state your
16 name and spell your last name?

17 MR. BLAND: My name is Jim Bland, B-l-a-n-d,
18 and I'm a private citizen.

19 The history of Lake Michigan is one of
20 large numbers of environmental and ecological
21 upsets.

22 UNKNOWN SPEAKER: Speak up.

23 MR. BLAND: I'll do better. The whole history
24 of the lake is one of a lot of environmental upsets

1 and disruptions. Right now, as you take a look at
2 the near-shore fund that exists, you have reductions
3 in the perch fund, reductions in the alewives, you
4 have dicoria, which is mid-lake and short-lake and
5 mid-lake, shallow-lake species of micro crustation.

6 You have alewives that are being depleted.
7 All in all, the lake, itself, is being changed in a
8 very, very dramatic way. That being the case, one
9 of the things that we notice with the plan there is
10 no provisions for doing modifications and BAT
11 technology of entrainment and impingement.

12 A Chicago Tribune article identifies
13 5.2 million fish that are entrained at this specific
14 plant; and if I might, I would like to read
15 something, if I could. What I'm reading from is a
16 study that was done by Canadian researchers across
17 the entirety of the Great Lakes.

18 According to Kelso and Milburn, the Great
19 Lakes Bioliminology Laboratory, the number of fish
20 entrained and impinged annually in the Great Lakes
21 staggers the imagination, 1.2 billion and 98 billion
22 respectively, yet the implications of these direct
23 losses to the fish are rather obscure.

24 What is also strange to us is that these

1 unregulated previously-unreported losses have only
2 recently been recognized and acted upon by those
3 charged with safeguarding the resources of the Great
4 Lakes.

5 That is a quote from 1979. Okay? We're
6 here now 30 years later and are looking at numbers
7 5.2 million fish that are entrained and impinged;
8 and according to the language of the permit, the
9 language talks about entrainment and impingement
10 studies, if they are available.

11 Something is seriously wrong if there are
12 not impingement and entrainment studies at this site
13 a long time ago, a long time ago.

14 Second, there are notifications, and as I
15 have taken a look back on that information, the
16 thermal requirements for this plant go out about
17 1,000 feet. That means past that point in time,
18 there are specific Centigrade numbers and Fahrenheit
19 numbers that are not to be exceeded past that point.

20 Argonne Laboratory's study of this site
21 indicated that the influences from the heat from the
22 discharge go out thousands of feet past that.
23 Identifying the impact of that is going to be very,
24 very tough. Knowing and understanding how that

1 might influence this near-shore environment is a
2 very difficult biological study, very difficult.

3 There are near-shore folks that are
4 studying the issue. Illinois Natural History Survey
5 is studying perch population all up and down the
6 shoreline and recently ought to be consulted in
7 terms of oversight of this particular permit.

8 Relative to what types of impacts that
9 might initiate, if you take a look at perch, perch
10 are, which are one of the prime near-shore species,
11 perch spawning will be susceptible to photo period
12 and to temperature.

13 If you have high-heat discharges coming
14 from the plant, one of the types of changes that you
15 can get is a false spawning. It means perch can
16 spawn earlier than they would normally, and perch
17 are a species where the larva go back out into the
18 center part of the lake and then they come back to
19 the near shore.

20 If you send them out early, then the
21 forage that should be there may not be. You're
22 talking about very, very subtle things; and if we
23 can take a look at the thermal sorts of discharges,
24 the plant has not been held to things that are

1 already until their plan.

2 I wanted to ask a question about
3 anti-degradation. There is IEPA -- first of all, I
4 would like to ask what's involved in the
5 anti-degradation study?

6 MR. TWAIT: An anti-degradation, when we have a
7 permittee that wants to increase their discharge, or
8 increase the pollutants in their discharge, they
9 have look at what type of parameters they are going
10 to be discharging and quantify the loads.

11 They need to do an alternatives analysis,
12 and they need to look at what alternatives are
13 available. They need to quantify the receiving
14 stream.

15 MR. BLAND: Can I respond to your comments?
16 That really is helpful to me right now. Can I
17 respond to it?

18 MR. TWAIT: Sure.

19 MR. BLAND: The idea that they have not
20 increased the load, the bottom line is you don't
21 know what the load is. They haven't been busy
22 measuring it and monitoring it.

23 The new permit asks for all of those sorts
24 of parameters to be incorporated, and what we would

1 ask of you is that you do an anti-degradation
2 analysis of this particular plant in regards to
3 that. Thanks.

4 The third item, I hope I'm not getting too
5 long, if you take a look at the mercury that's in
6 the plant, in terms of discharge, the gentleman from
7 Midwest Generation indicated that they treat both
8 the fly ash and the mercury as a dry residue.

9 That's news to us, and were the
10 information provided by IEPA more detailed and
11 explicit about how the various unit processes
12 operate within the plant, it would have saved me
13 some time, and a lot of other people some grief, in
14 terms of understanding and making reasonable and
15 rationale comments back to you.

16 The plant is going to be -- required to do
17 SO₂ control. The SO₂ that's emitted from the plant
18 historically is on the order of 200 tons or
19 2,000,000 pounds per year. There will be various
20 types of materials ejected into the flu vats for
21 purposes of controlling that.

22 The SO₂ technology that is associated with
23 it is likely to make metals more mobile. So, one of
24 the problems, and indeed a new waste stream that you

1 might take a look at, is the business of the SO2
2 control. That's part of that.

3 Lastly, the gentleman from Midwest
4 Generation said that the ponds are not leaking.
5 They may not be leaking, but there are monitoring
6 wells around the perimeter that are coming up with
7 arsenic, and I won't go through all of them. I
8 don't remember all of them, but they are the very
9 types of heavy metals that we have concern about.

10 The idea that you would find those things
11 in the area around it would imply that the
12 supernatant water above the solids that are in the
13 pond is leaching metals, and it is an item of
14 concern.

15 So, past that, we would ask that you do a
16 much more stringent job of oversight for this
17 permit. We would ask that you take a look at those
18 2010 U.S. EPA Guidelines, which asks people not to
19 monitor alone, but to put BAT technology in place so
20 that these sorts of things can be controlled.

21 Thank you, and I apologize for going on so
22 long.

23 HEARING OFFICER STUDER: I was going to say
24 we've reached the time limit. It sounded like you

1 were winding down, so I allowed to you continue.

2 MR. BLAND: Good.

3 HEARING OFFICER STUDER: Evan Craig.

4 MR. CRAIG: Yes, my name is Evan Craig
5 C-r-a-i-g. I live in Vernon Hills, Illinois. I am
6 one of those six-and-a-half million people that
7 drink Lake Michigan water. I boat in it. I bathe
8 in it.

9 I came here because I can't do your job.
10 I was down at the beach today, and I didn't take my
11 chemistry set with me to make sure the water was
12 okay before I got into it, and I didn't check it
13 this morning when I had some water.

14 So, I'm here pleading with you to please
15 do your job in a protective way, so that we don't
16 have to find out too late that the water wasn't safe
17 for our consumption or safe for our use.

18 And, so, that's a question I really don't
19 quite understand, because it seems like this plant
20 has been running for a long time, and since before
21 we even had a Clean Water Act; and you're saying,
22 "Well, it was okay then, so we think maybe it's okay
23 now."

24 So, I'm asking is your role to allow a

1 discharge that might further impair the waters of
2 Lake Michigan, which are already impaired from
3 mercury, and then see whether they do; or is it to
4 limit the discharges, to insure that Lake Michigan
5 water is not impaired in the future, and then check
6 to make sure that that goal is achieved?

7 Are you prospective or precautionary? I
8 would like an answer. Is that fair?

9 MS. WILLIAMS: Both.

10 MR. CRAIG: Both? So, sometimes it's a
11 chemistry experiment with our Great Lakes, and
12 sometimes you're saying, "You can count on us," and
13 when do we know?

14 MR. LeCRONE: We use all data available at the
15 time we're renewing one of these permits and review
16 it to determine where the baseline data is
17 available, whether it is believed to be in
18 compliance with the discharge standards or not.
19 Based on the data we have available on our review,
20 we draft the permit accordingly.

21 Now, you know, like somebody else noted
22 earlier, we've got a new metals monitoring condition
23 permit to gather additional data beyond what is
24 required in the 2013 permit renewal application to

1 give us more data points for the next permit cycle.

2 The more information we have, the more
3 accurate review on what we can do, the easier it is
4 for us to make those determinations.

5 Our goal is to make sure that this plant
6 is meeting all the goals of the Clean Water Act and
7 the regulations developed under that. We do that to
8 the best of our ability with the resources
9 available.

10 We're always trying to, you know, do a
11 better job, and that's why we have these hearings is
12 to gather more information that maybe there is
13 something we weren't aware of, some data we didn't
14 have; and, so we always welcome that to make our
15 permit as strong as it can be.

16 MR. CRAIG: Okay. Well, I think that Midwest
17 Generation's permit expired four or five years ago,
18 and they submitted a new permit, which was an
19 opportunity, I think, for you to ask them to be
20 collecting more data so you could make a better
21 decision.

22 So, I just am imploring you to be
23 precautionary in the absence of data, because there
24 is a huge absence of data up here. We don't have

1 SO2 sensors with a huge SO2 source. You're talking
2 we have no mercury sensors with a known source of
3 mercury. So, please be more precautionary.

4 Then I would like to bring up another
5 point. Lake Michigan levels have dropped to record
6 low conditions for the last 14 years, posing an
7 emergency condition in the lake.

8 You state you think that the discharge
9 loading has not worsened, if I heard correctly, but
10 I'm concerned because of the same discharge into
11 less-receiving water will have a greater impact.

12 So, I'm asking you to please reconsider
13 your decision to weigh the anti-degradation analysis
14 and requirement. There is just less water out
15 there. Everybody knows it. Ships can't bring their
16 burdens into the ports. It's an emergency
17 condition. I would like you to reflect that. Thank
18 you.

19 HEARING OFFICER STUDER: Thank you.

20 MR. BRADEN: Robert Braden, B-r-a-d-e-n. I've
21 been a resident of Waukegan since 1985; and,
22 basically, there's a point of recreational use of
23 Lake Michigan that Waukegan residents, and residents
24 outside of Waukegan, can come to Waukegan's beach

1 and swim, kite surf, and kayak, you know, water
2 recreational use of any types.

3 It is a resource that not a lot of
4 communities have. So, I think it's important that
5 our state agencies and organizations and the state
6 Illinois EPA issue the strictest guidelines under
7 this permit that you can.

8 Even if you can impose upon Midwest
9 Generation to use closed-cycle cooling, so that they
10 would not discharge thermal hot water into Lake
11 Michigan.

12 So, anyway, I'm asking you to please do
13 the most that you can to protect public health of
14 not only Waukegan citizens, Illinois citizens, but
15 citizens of the country and the health of Lake
16 Michigan. Thank you.

17 HEARING OFFICER STUDER: Thank you, Mr. Braden.
18 Doug Ower.

19 MR. OWER: Hi. My name is Douglas Ower,
20 O-w-e-r. I am a resident of Zion. I've lived there
21 most of my life. Zion is just north of Waukegan on
22 Lake Michigan, and also Zion uses drinking water
23 from the lake, as you and as do many other citizens
24 of this area.

1 One of the things that I'm quite concerned
2 about is ground water contamination from the ash
3 ponds. As I understand, last year the IEPA issued a
4 notice of violation about ground water
5 contamination; is that correct?

6 MR. DUNAWAY: That's correct.

7 MR. OWER: Is there anything in this permit
8 that would require amending the standards or
9 monitoring or regulation or plans to clean up that
10 ground water contamination?

11 MR. DUNAWAY: The permit, itself, does not
12 contain any ground water monitoring; however, as a
13 result of that violation notice, there was an
14 approved compliance commitment agreement which does
15 require ongoing monitoring, also requires
16 installation of a couple of additional wells at the
17 site.

18 MR. OWER: Now is that a continuous monitoring
19 or how often?

20 MR. DUNAWAY: Quarterly.

21 MR. OWER: Could that be increased, I mean
22 quarterly? Can we check that more often, and what
23 kind of plan is there?

24 MR. DUNAWAY: Currently, we don't believe the

1 active ash ponds are the source of contamination.
2 There appears to be some other source, other than
3 the active ash ponds.

4 We do not necessarily know what that is
5 right now, but we have had discussions with Midwest
6 Generation, and they are looking at the situation,
7 and they have engaged their consultants in looking
8 into that also.

9 MR. OWER: The other thing is I understand the
10 U.S. EPA is currently revising their rules as far as
11 coal ash pollution, the pollutant runoff from the
12 ash ponds. Is that correct?

13 Have they asked the Illinois EPA to try to
14 look at changing their standards?

15 MR. LeCRONE: I can take that one. U.S. EPA
16 has proposed to update the effluent limitation
17 guidelines for the steam electric subcategory which
18 uses the power stations.

19 Some of that will include potentially new
20 limitation upon ash discharge and that sort of
21 thing. It's still in the rule-making process, so
22 there hasn't been any final decision what that final
23 rule is going to look like at this point.

24 So, we always look at a permit review

1 cycle. Part of that is looking at what is being
2 discharged isn't complying with standards. Does
3 something else need to be done? That is always part
4 of our review anyway, but U.S. EPA is in the middle
5 of that rule-making process.

6 MR. OWER: So, is there any change in this
7 permit from the previous permitting to address that
8 there should be a change in the standards?

9 MR. LeCRONE: There is quite a bit of
10 additional monitoring required by this permit that
11 was not included in the previous permit.

12 MR. OWER: Okay. Well, okay. I guess to
13 summarize, I would just hope that EPA tightens up
14 the standards on the permit, does everything they
15 can to monitor this ground water pollution, have a
16 cleanup plan, and also more monitoring and treatment
17 of the effluent discharge.

18 That is, as I understand,
19 8,000,000 gallons a day of effluent discharge going
20 into Lake Michigan for decades. Thank you.

21 HEARING OFFICER STUDER: Thank you, Mr. Ower.
22 Verena Owen.

23 MS. OWEN: My name is Verena Owen. I'm happy
24 to spell my last name. More people are interested

1 how you spell Verena. That's V-e-r-e-n-a O-w-e-n.

2 First of all, thank you, Illinois EPA, for
3 holding a public hearing. I know this isn't always
4 easy, but we appreciate that you come and listen to
5 the citizens of Waukegan, Illinois, on this NPDES
6 permit. Thank you very much.

7 This is a NPDES permit, and if you look at
8 the P and the E of what that means, it actually
9 means pollution elimination, not illusion of
10 allowing permits; and when the Clean Water Act was
11 passed in 1982, the expectations were actually that
12 by 1985, all water pollution had ended.

13 Well, obviously that did not really
14 happen. The other thing that the Clean Water Act
15 envisioned is that they would have to install the
16 best technology; however, coal has enjoyed a
17 loophole for over 30 years.

18 Other industries, from refineries to paper
19 manufacturing to chemical, they have had the
20 requirement to address their water pollution much
21 longer than the coal industry has. I was in North
22 Carolina last week in the Catawba River. We
23 released a big report, and it responds to the
24 effluent limitation guidelines.

1 The river has the boaters, and the kids,
2 and the fisherman, and we went out to a coal plant,
3 passing a water intake plant, just pretty much like
4 the one in Waukegan just down here, and saw this
5 orange alien soup coming off that coal ash plant.
6 Nothing that looks like it should ever go into a
7 body of water that supplies drinking water for
8 citizens.

9 I was at the Illinois River last week, and
10 I know you guys are going there next week, and the
11 same kind of community that wants clean drinking
12 water, that wants to enjoy the fish, that wants to
13 make sure that their kids can swim in a safe water.

14 I live in Winthrop Harbor, which is about
15 four miles north of here, just north of Douglas and
16 Zion. We get our drinking water out of Lake
17 Michigan. I swim in Lake Michigan, and I don't
18 understand why we have ice fisherman out there in
19 the winter fishing in the marina.

20 So, this is my lake. This is our lake.
21 Nobody has a right to pollute our lake. So, I'm
22 asking you to issue the permit that does not pretend
23 there is no problem. U.S. EPA issued the permit,
24 even before it was very clear that it expects the

1 state to step in when the federal regulations are
2 not yet there.

3 So, do not say we're waiting for it. You
4 have clear marching orders to protect the citizens
5 of Illinois, and I hope that you will. Thank you.

6 HEARING OFFICER STUDER: Thank you, Ms. Owen.
7 Peggi Braden.

8 MR. BRADEN: Peggi Braden, B-r-a-d-e-n.

9 HEARING OFFICER STUDER: And, for the record,
10 the first name is P-e-g-g-i.

11 MS. BRADEN: I'm a concerned Waukegan citizen.
12 I am a school nurse in Waukegan School District; and
13 for about 11 years, I worked at the elementary
14 building on the south side of Waukegan, which is the
15 poor or lower-income area of Waukegan.

16 I don't know a whole lot about the
17 engineering of the power plant, and all that kind of
18 stuff, but what I do know is that the heavy metals
19 are bad; and I know that there's pollution coming
20 out of that power plant that causes, you know, that
21 has heavy metals.

22 I know mercury is bad. Mercury was so bad
23 that thimerosal, which is a preservative that they
24 put in the required childhood vaccines, they took

1 that out, and thimerosal is just a derivative of
2 mercury; and they took that little bit of thimerosal
3 out of the preservatives out of the vaccine because
4 mercury is that bad.

5 Lead is bad. Children six years and
6 under, they have to be tested for lead levels, blood
7 lead levels for their preschool physicals quite
8 early. So, the heavy metals are bad. That's one of
9 the reasons why we have a fish advisory in Waukegan.

10 I also know, from working in Waukegan
11 School District, that we do have a fairly large
12 special-education population. Is there a connection
13 between the heavy metals? Well, yes, there is.
14 It's pretty much proven lead levels do cause
15 developmental delays and cognitive problems later in
16 life, you know.

17 Is it all because of the power plant
18 pollution? No. I mean, there's lead paint.
19 There's emissions from cars. There is other causes.

20 The other thing that I know is that we
21 have the fish advisory that we limited the amount of
22 fish that one can eat coming out of Lake Michigan.
23 I know for a fact we have families, the low-income
24 families, supplement their diets from fish, to help

1 put food on their dinner table.

2 If they have to choose between putting
3 food on the dinner table and following the fish
4 advisories, well, they're not going to follow it.
5 So, they're getting a lot of lead levels and mercury
6 levels. Mercury is in the fish.

7 They're getting high heavy metals in their
8 diets, and I just really, really feel that we have
9 obligation to make certain that Midwest Gen uses the
10 state-of-the-art, top-of-the-line,
11 the-best-of-the-best-of-the best anti-pollution
12 controls that they can for the water here in Lake
13 Michigan.

14 We owe it to the children. We owe it to
15 the mothers to be here in Waukegan. This pollution
16 that has been going on in Waukegan has been going on
17 for decades, and it needs to stop. It is time for
18 it to stop, as much as we possibly can, with the
19 current technology that we have. Thank you.

20 HEARING OFFICER STUDER: Thank you. Diane
21 Ower.

22 MS. OWER: Regular spelling Diane, D-i-a-n-e,
23 Ower, O-w-e-r. I live in Zion. I'm following Peggi
24 on what's going to look really funny.

1 I am a teacher, too, in Waukegan, and I
2 was going to say I'm speaking here for the students
3 that I have, who will often tell me they are eating
4 the fish, and it does come up, "Why are there
5 mercury levels? What does that mean? What is it
6 doing to me? But we have to eat the fish."

7 So, I'm where the rubber meets the road in
8 second grade, because the second graders have very
9 simple direct questions, "Why is it in the lake to
10 begin with? Where is it coming from? Where are the
11 adults that are supposed to be watching this and
12 taking care of our lake?"

13 So, I'm speaking for them. I am hoping
14 that you can take our message back that we would
15 like our Great Lake to be healthy and toxin free.
16 The aquatic life that Mr. Bland talked about, it
17 isn't just fish, it is even in larva that feeds the
18 fish eventually.

19 So, the aquatic life and the quality of
20 our drinking water, we need the maximum protection,
21 and it's in your purview to require it, to require
22 it for our lake. So, that's what I'm requesting for
23 my students and for people who aren't here to speak
24 up on it. Thank you.

1 HEARING OFFICER STUDER: Thank you. Edra
2 Stewart.

3 MS. STEWART: Good evening. State my name is
4 Edra, E-d-r-a, last name Stewart, S-t-e-w-a-r-t. I
5 have a question here for the whole panel hopefully.

6 HEARING OFFICER STUDER: Can you speak up?

7 MS. STEWART: I have a question here for the
8 whole panel here, and hopefully it will cover all of
9 you.

10 I don't know, maybe, of you can answer
11 that question, but my question is: What secured
12 guarantee that you can give us here in the Lake
13 County area where our water is being -- having the
14 coal ash come in from the Midwest Generation, what
15 secured guarantee can you give us today, or you
16 foresee that it is safe, it's safe today, and it
17 would be safe in the next five to ten years from all
18 of the comments that you just heard, particularly
19 for the coal ash that is flowing through.

20 From sitting there, I can't get a real
21 good firm secure answer that it is safe, the
22 percentage of it. I think I stated that the
23 different type of data.

24 How secure is that data that you can

1 clearly, you know, sit there and say for the next
2 five or ten years, or even today, that our students,
3 that our children, that our mothers to be, myself,
4 is safe from the coal ash that are being put through
5 in Lake Michigan, just from a personal perspective?

6 MR. LeCRONE: Well, all I can say is that we've
7 reviewed these discharges, whether it's for a new
8 permit or a renewal such as this.

9 We review all the data that we have
10 available and compare it to our Water Quality
11 Standards and our effluent Standards, to make sure
12 that based on the data that we have, that the
13 discharge is in compliance with the standards, which
14 is the case here for the Waukegan station.

15 However, we are always, you know,
16 requiring additional monitoring, whether it is
17 limitations or just monitoring of certain
18 pollutants, like the list of metals we've got in the
19 draft permit here, in order to have more information
20 available to us, to always make a better informed
21 decision than the one before it.

22 So, what we are confident that based on
23 the data we have, this permit is compliant, meeting
24 all the Water Quality Standards, and the discharge

1 is not causing undue harm to the lake. Part of our
2 review process is to continually review additional
3 newer data, to make sure that that happens from here
4 on out.

5 MS. STEWART: Okay. So, as we leave here this
6 evening, with all the information that you have, it
7 will be reviewed and be reconsidered from a civil
8 standpoint for our community?

9 MR. LeCRONE: Right.

10 HEARING OFFICER STUDER: Absolutely.

11 UNKOWN SPEAKER: Every year or every five
12 years?

13 HEARING OFFICER STUDER: When we conduct the
14 hearing, the purpose of hearing is to get
15 information from the public.

16 MS. STEWART: Sure.

17 HEARING OFFICER STUDER: That information is
18 taken, it is looked at, and we consider what
19 appropriate changes to the permit needs to be made,
20 whether or not a permit really does comply with the
21 requirements or even having the permit issued.

22 So, it is a re-evaluation process based on
23 the comments that are made tonight; and in addition
24 to that, we also review the written comments that

1 are submitted during the comment period, which
2 extends for 30 days beyond the hearing.

3 So, if you leave here tonight, and you
4 have additional comments and say, "Oh, I should have
5 made," you've still got the opportunity to submit
6 those, and we will also look at those as well.

7 Karen Long McCleod. The next person will
8 be Wallace Winter.

9 MR. WINTER: Hello. My name is Wallace Winter
10 W-a-l-l-a-c-e, Winter, winter like the season. I'm
11 testifying as a private citizen and resident of Lake
12 County and from Great Lake.

13 Lake County has been home to my family for
14 most of the past 160 years; and I suppose, in part
15 for that reason, I feel an obligation to be a good
16 steward to try to protect its land, water and air.

17 And I guess that means, among other
18 things, speaking up at hearings like this, to warn
19 of threats to the environment posed generally by the
20 combustion of fossil, and specifically by the
21 polluted water discharges into Lake Michigan by
22 Midwest Generation Plant in Waukegan.

23 Although I'm not an expert on water
24 quality, I can read and have noted that Midwest

1 Generation began operating 90 years ago in 1923, and
2 its current boilers are more than 50 years old.

3 This plant is a white and geriatric
4 elephant, if there ever was one; and yet, the IEPA
5 repeatedly allows it to resist modernization and
6 adoption of the best available technology to assess
7 damage to aquatic life at the inflow stage, or to
8 monitor ground water near the coal ash ponds, or to
9 prevent heated -- returning heated water to the lake
10 by using closed-cycle, wet-cooling towers, or to
11 test heavy metals, especially mercury, which we've
12 heard a lot about this evening in the coal ash
13 ponds, and then the 8.3 million gallons of effluent
14 discharge that the permit allows the plant to pour
15 into the lake each day.

16 EPA's allowance of the Waukegan plant not
17 to embrace existing technological innovations in
18 these areas results from IEPA's practice of
19 grandfathering the Waukegan plant, so it doesn't
20 have to follow the U.S. EPA's recent and more
21 stringent guidelines on coal ash pollution.

22 In the proposed permit at issue here, IEPA
23 has set no limits for coal ash pollution from the
24 Waukegan coal plant. This poses a significant

1 threat, which we've already heard mention of, to the
2 health of Lake Michigan and the people in the
3 surrounding communities.

4 Moreover, the IEPA only requires quarterly
5 monitoring of Mercury, which is already at levels so
6 high that fishermen are advised not to eat what they
7 catch.

8 The IEPA should impose the recent U.S. EPA
9 guidelines on the Waukegan plant instead of
10 exempting the plant from virtually all these
11 guidelines.

12 In addition, I submit the IEPA should
13 include in its permit the requirement to develop a
14 ground water cleanup plan to address the documented
15 pollution of nearby ground water, and a remediation
16 plan to reduce the estimated 5.2 million fish killed
17 per year by the intake of 665,000,000 gallons of
18 water each day.

19 Would the IEPA have been so lax in its
20 proposed water discharge permit if the plant had
21 been located between Lake Bluff and Lake Forest, or
22 between Winteka and Glencoe?

23 Midwest did a demographic summary of the
24 area within three miles of the plant reveals

1 approximately 70 percent of the population living in
2 that area are persons of color, and the NAACP in
3 2012 estimated that the average income in that
4 community was just over 16,000 per year.

5 It should also be noted that there are
6 five elementary schools with a total of almost 2,000
7 students. We've already heard from two
8 representatives who interact with these students
9 within approximately three miles of the plant.

10 I urge the IEPA to listen carefully to the
11 testimony of residents in the communities affected
12 by the polluted water caused by the plant.

13 Finally, I trust the IEPA, as it
14 re-evaluates and hopefully strengthens its permit
15 for the Midwest Generation plant, will keep in mind
16 the fact that this plant is situated only a few
17 hundred yards from what the Illinois Department of
18 Natural Resources has described as, quote, the
19 highest quality natural area in Illinois.

20 I'm referring of course to the 3,070-acre
21 Illinois State Beach Park and the adjacent natural
22 area, including Spring Bluff Nature Preserve owned
23 by the Lake County Forest Preserve District.

24 This area, which I assume most of you know

1 and have enjoyed, as I have, reserves the last
2 remaining shore in the state with natural coastal
3 dunes and wetlands, a coastal flora of exceptional
4 high-quality, including more than 50
5 state-threatened and endangered species.

6 It also, by the way, includes a site where
7 they believe in 1673 Marquette and Joliet camp on
8 their way up to Greenbay and eventually discovered
9 the Mississippi River.

10 For hundreds of years, the Indians in this
11 part of the world considered this Great Lake behind
12 us or behind me as sacred waters. I urge the IEPA
13 to keep that in mind, as it decides how much
14 latitude to give Midwest Generation in discharging
15 polluted effluent into Lake Michigan.

16 HEARING OFFICER STUDER: Thank you. Mary
17 Mathews.

18 MS. MATTHEWS: Mary Mathews, M-a-t-h-e-w-s.
19 Hi, I'm Mary Mathews, a concerned citizen, and my
20 family and I live in Lake Forest, and I'm sorry, I
21 did not know Mr. Volkmann. He made very eloquent
22 comments.

23 We are just down from the lakefront here.
24 One of our favorite activities is going to the

1 beach. Another is fishing, especially when my
2 nephew is visiting, as he is an avid fisherman. We
3 go out on a charter boat here in Waukegan and spend
4 hours on the water.

5 Unfortunately, we often had to release the
6 fish, as we are limited to the amount that we can
7 eat, due to the heavy metals in the fish. Because
8 of the coal ash pollution, it is unsafe to eat fish
9 as often as one would like, even though health-wise
10 people are encouraged to include more fish in their
11 diets.

12 Isn't it ironic that the government stocks
13 the lake for fishing, but then we can't eat the fish
14 because of all the mercury, lead and arsenic that
15 they have ingested.

16 The coal plant is a major cause of Lake
17 Michigan's pollution, and we have known about it for
18 decades. There is no excuse for this. If the coal
19 plant is going to continue to operate, it must stop
20 polluting our water and endangering my health, my
21 family's health, and the health of everyone else who
22 likes to eat fish from Lake Michigan.

23 Midwest Generation should not be allowed
24 to get away with polluting our water and food. They

1 have had plenty of time to make needed changes.
2 This type of polluting energy is not needed. The
3 health of millions of people, who depend on Lake
4 Michigan, deserve better.

5 There needs to be strong quality standards
6 on the amounts of heavy metals going into Lake
7 Michigan. There needs to be strict frequent
8 monitoring of the water, and there needs to be
9 severe fines.

10 When Midwest -- I have a question for you.
11 When Midwest Generation sells this plant, will the
12 permit automatically transfer to the next owner,
13 with the possibility of more delays in meeting
14 standards, or will the new owner have to reapply for
15 a permit?

16 MR. LeCRONE: Typically, the permit is
17 transferred. Both parties would request the permit
18 be transferred, whether it's in the administratively
19 continued state that it is now, or whether it is
20 renewable.

21 The permit is whatever administrative
22 state that it is. It will be transferred upon
23 written request from both parties.

24 MS. MATTHEWS: Will that be automatic for

1 renewal?

2 MR. LeCRONE: Typically, yes, as long as they
3 meet the requirements in the federal regulation for
4 requesting a transfer of a permit, yes.

5 MS. MATTHEWS: Okay, thank you.

6 HEARING OFFICER STUDER: Thank you,
7 Ms. Mathews. Jessica Dexter.

8 MS. DEXTER: Jessica Dexter, that is
9 D-e-x-t-e-r. I'm just going to jump right into
10 questions for IEPA on the permit. I'm a staff
11 attorney with the Environmental Law and Policy
12 Center.

13 So, my first question is -- I have a
14 couple of basic questions about the permit and how
15 it was drafted. Although the draft permit fact
16 sheet states that two boilers are operating instead
17 of three, the average discharge flows from the
18 asphalt have not changed from earlier permit drafts,
19 as we've seen.

20 Should they be corrected to flows as
21 stated by Midwest Generation in some of their
22 earlier comment letters that were referenced in the
23 comments we submitted earlier?

24 MR. RABINS: Well, Unit 6 did drop off line and

1 the permit does not reflect that. We will revisit
2 the flow numbers.

3 MS. DEXTER: Does it have any impact on
4 effluent limits that are in the draft permit?

5 MR. RABINS: All the limitations are
6 concentration. So, no, they are not flow based.

7 MS. DEXTER: Okay, thank you. Did IEPA change
8 the identified receiving water between the
9 December 2, 2011, draft, and the February 8th, 2013
10 draft?

11 MR. RABINS: No, we did not.

12 MS. DEXTER: The receiving water is still
13 considered an open water of Lake Michigan then?

14 MS. WILLIAMS: Yes, that's the EPA's position.

15 HEARING OFFICER STUDER: The question he
16 answered to was Lake Michigan. Go ahead.

17 MS. DEXTER: All right. Now I'll have some
18 questions about thermal pollution. The draft permit
19 put on public notice in 2011 included thermal
20 limits. Why did IEPA include those thermal limits
21 in that draft permit?

22 MR. RABINS: In the previous permit, the board
23 order that was referenced in that, the board order
24 mentioned in the thermal condition did not reference

1 the relief.

2 So, the initial draft permit that we
3 issued for this facility did not include the relief.
4 When we received comments from the company, they
5 commented in the order granting relief was brought
6 to our attention, so we reinstated it.

7 MS. DEXTER: Were the limits in the 2011 draft
8 permit based on Lake Michigan Water Quality
9 Standards?

10 MR. RABINS: Yes, they were the Lake Michigan
11 Quality Standards.

12 MS. WILLIAMS: They were not water-quality
13 based effluent limits.

14 MS. DEXTER: Can you explain more what that
15 means?

16 MR. TWAIT: They did not encompass any type of
17 mixing.

18 HEARING OFFICER STUDER: I can barely hear you.
19 You're going to have to speak up so everything that
20 is spoken here I do want on the record, and I do
21 want the audience to be able to hear. So, you're
22 going to have to speak up from back here.

23 MR. RABINS: The original permit -- the
24 previous permit, the thermal condition did not

1 reference thermal -- the board order did not or the
2 condition did not reference the board order that
3 grants them thermal relief.

4 So, when this permit was drafted, they
5 didn't get any thermal relief. They had to meet the
6 thermal standards at the point of discharge. That
7 is how we drafted it.

8 During the comments, when we received
9 comments from the company, the order that granted
10 relief was brought to our attention. We then
11 reinstated the relief and issued a new draft permit,
12 and then this is a public notice permit. So, this
13 is the second permit after that.

14 UNKNOWN SPEAKER: The thermal relief is the
15 water --

16 HEARING OFFICER STUDER: Okay, it's not your
17 turn to speak. So, please do not interrupt.

18 MS. DEXTER: Did anything change other than the
19 -- between 2011 and 2013, other than finding this
20 variance in the Pollution Control Board that caused
21 IEPA to remove those thermal standards from the
22 permit?

23 MR. LeCRONE: No, that was it. They didn't
24 correct the reference in the permit. That other

1 board order we corrected it when we released that it
2 was being drafted.

3 HEARING OFFICER STUDER: Could you hear in the
4 back what Darin had said, or was it too muffled?

5 UNKNOWN SPEAKER: Too muffled.

6 HEARING OFFICER STUDER: You did not hear it;
7 is that correct? What he said there was incorrect
8 reference in that draft permit, and that was
9 corrected in the public notice permit.

10 MS. DEXTER: In preparation of this draft
11 permit, did IEPA review the documentation presented
12 for the 1978 variance that we're talking about?

13 MR. LeCRONE: Did we review the old studies?

14 MS. DEXTER: The old studies documentation.

15 MR. LeCRONE: We have the old studies from '75
16 and '76. We basically looked at what was the
17 facility discharging now as far as heat load, and
18 determine if there had been any increase or anything
19 that resulted in additional heat being discharged
20 into the lake, which may cause those assumptions
21 made in the earlier studies to no longer be
22 applicable.

23 We didn't find any reason to believe there
24 was any additional heat loads in the lake, so our

1 decision was based on that.

2 MS. DEXTER: Okay. Do you know whether the
3 aquatic community in Lake Michigan as a whole
4 experienced any changes since 1978; for example,
5 have species recovered or declined, has the
6 composition of the aquatic community changed over
7 time?

8 UNKNOWN SPEAKER: I can answer that. I can
9 answer that truthfully.

10 HEARING OFFICER STUDER: Sir, with all due
11 respect, I'm not allowing audience members to
12 interrupt. I've already corrected one person, and
13 I'm going to ask that we hold an orderly hearing.

14 It's very difficult for the court reporter
15 to hear when there's other people that are
16 unrecognized speaking, and that's why I go through
17 the process of having people spell their name.
18 Scott, go ahead.

19 MR. TWAIT: I'm not a biologist, and I haven't
20 looked at it.

21 MS. DEXTER: Thank you, Dean, for your efforts
22 to keep this hearing orderly. I appreciate the
23 people's enthusiasm. I do appreciate you run a very
24 fair hearing.

1 HEARING OFFICER STUDER: Can you move in a
2 little bit?

3 MS. DEXTER: I'm afraid if I'm close, I won't
4 feel like I need to yell as much.

5 HEARING OFFICER STUDER: I'll remind you.

6 MS. DEXTER: Thank you. Did the 1978 variance
7 delineate the extent of the thermal plume from the
8 Waukegan plant?

9 MR. LeCRONE: I don't remember off the top of
10 my head.

11 MS. DEXTER: All right.

12 MR. RABINS: You mean give a distance like they
13 get 1,000 feet to comply?

14 MS. DEXTER: Were they able to actually
15 determine what the thermal plume was from this
16 plant?

17 MS. WILLIAMS: We'll have to look into it.

18 MR. LeCRONE: We'll have to look into it.

19 MS. DEXTER: Thank you. I think I'm going to
20 move on to new questions about impingement and
21 entrainment. Can you explain what cooling water
22 intake structures are operated at this facility?

23 MR. RABINS: The cooling system for each unit
24 is designed as a once-through system. Cooling water

1 from the lake is withdrawn from an onshore location,
2 and passes through the intake canal into a
3 constructed embankment prior to entering the plant
4 through two intakes, one for each of the two units.

5 There is bar rack located in front of the
6 traveling screens at each intake. Each screen is
7 equipped with fixed trap bars. Each screen house is
8 equipped with fixed-trash bars, through-flow
9 traveling screens and a high pressure wash-water
10 system. All screens are made with No. 12 page wire
11 with three-eighth inch openings.

12 The traveling screens are oriented
13 parallel to the face of the screenhouse, and the
14 intake withdraws water from the entire column.

15 MS. DEXTER: Thank you. What data did IEPA
16 have regarding impingement and/or entrainment at
17 this facility?

18 MR. LeCRONE: Current, historical, both?

19 MS. DEXTER: I would say both.

20 MR. LeCRONE: We have the original studies, and
21 we have the proposal for information collection that
22 was submitted under the old phase 2 rules.

23 We did make a best professional judgment
24 determination. We tried to at least. Maybe we

1 didn't explain our process or our decision making
2 well. We can expand upon that in the responsiveness
3 summary and give a better outline of what we
4 considered and didn't consider and the like.

5 We tried to do that for this one, but it
6 seems pretty clear that maybe we didn't hit the
7 mark. So, we will correct that and give that full
8 explanation in the responsiveness summary.

9 HEARING OFFICER STUDER: We're approaching the
10 time limit. We've actually gone over the time
11 limit. If you have just a question or two yet, in
12 this line, I'll allow you to answer it and we'll go
13 accordingly.

14 MS. DEXTER: Actually, that covers everything I
15 have on this issue. So, I'll ask more questions
16 after, if we have time.

17 HEARING OFFICER STUDER: Okay, very good.
18 Julie Morrison.

19 MS. MORRISON: Hi. Thank you. My name is
20 Julie Morrison, M-o-r-r-i-s-o-n. I live in
21 Deerfield. I drink the water from Lake Michigan,
22 but I'm here this evening to speak for 190,000 plus
23 people that I represent in State Senate District 29.
24 I'm the State Senator for that district.

1 You've heard a lot of very impassioned
2 speakers tonight. Some with a lot of technical
3 background that I don't pretend to have. Some who
4 speak very passionately about the children they know
5 who are in their school systems and who are their
6 neighbors; and without repeating everybody else, I
7 just leave one message with you: You have a
8 tremendous responsibility.

9 It's not just an administrative job you
10 guys have, and I know you take it seriously. Errors
11 in judgment will last for the next two generations
12 of people who live in our area. So, I appreciate
13 your consideration, and I will also be sending
14 written comments, but thank you for your time
15 tonight.

16 HEARING OFFICER STUDER: Thank you, Senator.
17 Cindy Skrukrud.

18 MS. SKRUKRUD: I think I have a loud voice. My
19 name is Cindy Skrukrud. My first name is C-i-n-d-y.
20 My last name is S-k-r-u-k-r-u-d, and I am the clean
21 water advocate for the Illinois chapter of the
22 Sierra Club; and like the people here tonight, and
23 on behalf of Sierra Club, many members who fish,
24 swim and boat in Lake Michigan, and use the lake's

1 water as their drinking water supply. I'm concerned
2 that the Midwest Generation Waukegan power plant
3 minimizes the pollutants it discharges to the lake.

4 In addition, we need to make sure that the
5 power plant is not contaminating ground water, and I
6 have a number of questions I would like to ask about
7 the permit which the IEPA proposes to reissue to
8 Midwest Gen.

9 My first question is: Has any equivalent
10 of the monitoring required by Special Condition 18,
11 that's the last condition in the permit, or second
12 to the last, been required in the past? If so, have
13 reasonable potential analyses been conducted based
14 on that data.

15 MR. RABINS: No, it has not been required in
16 the past.

17 MR. TWAIT: The application, although had a
18 request for information, and the Midwest Generation
19 facility provided one data point for the Agency,
20 we've not done a reasonable potential analysis on it
21 yet; but we did take a look at it, and most of the
22 parameters were not detected.

23 Of the ones that were detected, there was
24 only a reasonable potential for one of those

1 parameters; however, the data point was not above
2 the Water Quality Standard.

3 MS. SKRUKRUD: What pollutant was that?

4 MR. TWAIT: Copper.

5 MS. SKRUKRUD: Now, we got some information
6 from the files of what Midwest Gen had submitted to
7 IEPA, and they had their own analysis of their own
8 data that they found that there was a reasonable
9 potential to exceed Water Quality Standards at
10 outfall 001 for iron, lead, mercury and phenols.

11 Why are there no limits on those
12 pollutants in the permit?

13 MR. TWAIT: I haven't seen that analysis.

14 MS. SKRUKRUD: I'll make sure you have a copy
15 of it.

16 MR. TWAIT: Thank you.

17 MS. SKRUKRUD: They did not perform their only
18 reasonable potential analysis on other metals that
19 are often found in coal ash. Those include things
20 like aluminum, thallium, silver, arsenic and
21 antimony.

22 Arsenic and antimony both of those have
23 been detected in the ground water near the coal ash
24 compound. So, that raises a concern for me.

1 Selenium, they reported a value of
2 .21 milligrams per liter selenium in the effluent
3 from the plant's wastewater treatment system, while
4 the Lake Michigan standard is 5 micrograms per
5 liter.

6 So, my question is: Has IEPA looked at
7 those pollutants and the need for a limit in the
8 permit?

9 MR. TWAIT: The water from the wastewater
10 treatment plant, it's a significant amount of
11 dilution, but the Agency will go back and look at
12 that data.

13 UNKOWN SPEAKER: Say that again. We can't hear
14 you.

15 MR. TWAIT: I'm sorry. The water from the
16 wastewater treatment plant gets a lot of dilution
17 from the cooling water; however, the Agency will go
18 back and take a look at that data.

19 MR. SKRUKRUD: In general, are facilities
20 allowed to use dilution to meet Water Quality
21 Standards?

22 MR. TWAIT: Yes, they are, to meet the Water
23 Quality Standards.

24 MS. SKRUKRUD: Now I want to ask the question

1 on this same line about mercury. Special Condition
2 15 describes the mercury monitoring method that is
3 to be used.

4 Can you clarify for me that that applies
5 to both outfall 001 and internal outfall C01; and
6 then my question is, this is how I read it, and you
7 can tell me if I'm wrong: Why is there a monthly
8 monitoring required for a year at outfall 001 and
9 then quarterly thereafter, while only quarterly
10 monitoring is required at outfall C01?

11 MR. RABINS: There is no mercury monitoring at
12 C01. That reference was left in there by error. We
13 had mercury monitoring on all the subway streams,
14 but we decided to monitor it at year one instead.

15 There is no mercury monitoring or metals
16 monitoring required or proposed for C01.

17 MS. SKRUKRUD: Okay. Has Midwest Gen provided
18 any mercury monitoring using the method that is
19 described in Special Condition 15? Have they
20 already provided any data using that method to you?

21 MS. WILLIAMS: No.

22 MR. TWAIT: I have not seen any.

23 MS. SKRUKRUD: Will the Agency use the
24 3.1 nanograms per liter Human Health Standard, or

1 the 1.3 nanograms per liter for Wildlife Standard
2 for mercury for Lake Michigan in its reasonable
3 potential analysis?

4 MR. TWAIT: The agency will look at the most
5 restrictive.

6 MS. SKRUKRUD: So that will be the
7 1.3 nanograms per liter Wildlife Standard. I looked
8 at the data that Midwest Gen provided in their
9 application, and they report mercury as a less than
10 .2 milligrams per liter value.

11 So, my question is: Can you determine
12 whether mercury has a reasonable potential to exceed
13 the lake, that very low Lake Michigan Water Quality
14 Standard, if you only have mercury data reported at
15 less than .2 milligrams per liter?

16 MR. TWAIT: The old permit did not require the
17 low level mercury data, and the method that was used
18 does not give sufficient information to say whether
19 or not the Water Quality Standard is met.

20 MS. SKRUKRUD: Okay.

21 HEARING OFFICER STUDER: I think the .2 is
22 actually micrograms and not milligrams.

23 MS. WILLIAMS: Nanograms.

24 MR. LeCRONE: No, .2 micrograms.

1 HEARING OFFICER STUDER: It's .2 micrograms.

2 MS. SKRUKRUD: You're saying what they
3 submitted with their application form? Yeah, I see
4 that Jaime is looking at it right now. Maybe I read
5 that wrong. It's still much higher.

6 HEARING OFFICER STUDER: Correct.

7 MS. SKRUKRUD: Micrograms are still much higher
8 than nanograms.

9 HEARING OFFICER STUDER: Absolutely.

10 MR. RABINS: They reported it less than
11 0.02 milligrams per liter.

12 MS. SKRUKRUD: That's what I read, yep. Okay.
13 So, could you please -- could we receive any
14 calculations that you do, looking at this data, to
15 determine a reasonable -- any reasonable potential
16 analysis that you do on this data before the close
17 of the comment period?

18 If you do any recalculations, if we could
19 see that and be able to comment on it, that will be
20 helpful.

21 HEARING OFFICER STUDER: I'm not sure we can
22 completely accommodate that, but I'll take that back
23 and see what we can do, Cindy.

24 MS. SKRUKRUD: Okay, great. Thank you. Now

1 shifting to two questions about dissolved oxygen.

2 First, in the December 2011 draft permit, there was
3 a requirement that dissolved oxygen not be less than
4 90-percent saturation.

5 Why was that removed from the most current
6 version of the permit?

7 MR. RABINS: Well, the Agency wanted to go with
8 monitoring status to see what they before we imposed
9 a limit.

10 MS. SKRUKRUD: So, then, my question is about
11 that monitoring condition, which is in Special
12 Condition 11, why is it requiring that dissolved
13 oxygen be monitored during the daytime?

14 You've set hours that it's supposed to be
15 collected during the daytime, instead of at night,
16 or right before dawn, when we would expect DO to be
17 at its lowest point in the dire one-sentence swing.

18 MR. TWAIT: The agency wanted that data
19 collected during our normal business hours so that
20 we could directly compare it to our program that we
21 have of the ambient stations taking samples. I'll
22 stop there.

23 MS. SKRUKRUD: Okay.

24 HEARING OFFICER STUDER: We have also gone the

1 time limit, but if you have a couple more questions
2 that are dealing with this specific topic, I want to
3 exhaust this topic before.

4 MS. SKRUKRUD: Well, I have a question about --
5 it's kind of a long question, but it's really one
6 question about the issue of fly ash.

7 HEARING OFFICER STUDER: Well, go ahead and ask
8 that question.

9 MS. SKRUKRUD: So, are both fly ash and bottom
10 ash directed to the coal basins, coal ash basins?
11 There appears to be some inconsistency between the
12 draft permit, which identifies fly ash and bottom
13 ash as waste streams to outfall C01.

14 We've seen maps that included a report by
15 a RCRA inspector, which legally defines as fly ash
16 and bottom ash settling basins, and then the RCRA
17 inspection itself says the ponds are bottom ash.

18 And the fly ash is stored in silos, and
19 then we heard Mr. Nagel's initial statement tonight
20 that the fly ash is handled dry. Then in the
21 permit, there's -- it says there's fly ash sluice.

22 It lists it as intermittent, but I looked
23 at an IEPA 2011 Compliance Evaluation Inspection
24 Report for this facility, and it lists it as 1.6

1 million gallons per day.

2 So, is the dry handling of fly ash, or is
3 this permit going to allow wet handling fly ash?

4 Mr. Nagel also said that they installed new air
5 equipment in 2008, so that's during this existing
6 permit cycle, that captures mercury in the fly ash.

7 If the permit is to be reissued with
8 allowed discharge of fly ash sluice, then I agree
9 with Jim Bland that IEPA needs to do an
10 anti-degradation assessment for this new waste in
11 the fly ash.

12 MR. RABINS: The previous permits had fly ash
13 in there, and I learned tonight that when they took
14 Unit 6 off line, that that was the unit that they
15 were sluicing fly ash and that stopped.

16 So, they are no longer doing that
17 activity. I know the permit reflects it, because
18 the previous ones did.

19 MS. SKRUKRUD: So, will the permit be changed
20 to reflect that?

21 MR. RABINS: At this moment, it hasn't been
22 cited. There's an authorization to do it. It
23 doesn't mean they are going to do everything in
24 here. It has allowed them to do it.

1 MS. SKRUKRUD: If it's going to allow them to
2 put out fly ash that has more mercury in it than it
3 used to, then you need to do an anti-degradation
4 assessment.

5 MS. WILLIAMS: We're going to go back, and
6 that's when we relook at that based on the new
7 information that we've gotten tonight.

8 MS. SKRUKRUD: Great. Thank you.

9 HEARING OFFICER STUDER: Mike Ohlinger.

10 MR. OHLINGER: Hi, folks. My name is Michael
11 Ohlinger. I'm a certified chimney sweep.
12 O-h-l-i-n-g-e-r. I did it for 30 years here. Is
13 anyone on this panel from Midwest Generation.

14 HEARING OFFICER STUDER: No.

15 MR. OHLINGER: Anyone in the audience from
16 Midwest Generation?

17 HEARING OFFICER STUDER: There are company
18 representatives here.

19 MR. OHLINGER: Okay. I've been to five EPA
20 meetings, four for the Asian carp and one for coal.
21 I don't think you folks understand what is going
22 through with this lake right now with the hypoxia,
23 with the Asian carp, with this power plant that
24 didn't run most of the time when I was a chimney

1 sweep, because I was up on the roofs looking down
2 here constantly.

3 What I gather from this meeting is you
4 folks don't know where this mercury emission is
5 coming from, correct? Yes or no?

6 MR. RABINS: What mercury?

7 MR. OHLINGER: Into the lake.

8 MS. WILLIAMS: Well, mostly it was coming from
9 the air. Mostly it was coming from the air.

10 MR. OHLINGER: Perfect. Now, I will go to
11 that, what you just mentioned in the air. When was
12 this gross violation of pollution that you caught at
13 the power plant, within the past three years, since
14 2010, 2011?

15 HEARING OFFICER STUDER: What gross violation
16 are you talking about?

17 MR. OHLINGER: Well, there's -- I should say
18 whether what went on two-and-a-half years ago, that
19 I put a stop to with my videos and going directly to
20 the EPA calling the IEPA. Is anyone on this panel
21 from this local area?

22 HEARING OFFICER STUDER: No.

23 MR. OHLINGER: A regulatory person to regulate
24 this power plant? Because Springfield at that time,

1 I don't remember the guy I talked to, said that I
2 was supposed to put the feet to the fire of this
3 regional area regulator.

4 I don't know where that went from there,
5 but right after that, the power plant was shut down
6 and cleaned up.

7 MR. RABINS: We do have staff out here that do
8 field inspections.

9 MR. OHLINGER: How often?

10 HEARING OFFICER STUDER: We would have to give
11 you that information. We don't have anyone from the
12 field office here. We have no one from air here.
13 It is a water permit.

14 MR. OHLINGER: Okay. I'm watching this power
15 plant daily from 41 and Washington Street. The
16 emissions are somewhat better. What you have here
17 is a non-filtered mercury, heavy metal producing
18 power plant.

19 When everything stops flowing, air around
20 this region, the pollution pancakes out for miles.
21 The same as the one in Kenosha. Okay? Like you had
22 mentioned, one of the biggest sources for mercury in
23 the lake is from the air here. Fallout is
24 tremendous.

1 There is one video that I put out that
2 actually shows the smoke coming out, losing its
3 therms coming right back down to the ground. Right
4 here we have a glacial incline. That has terrific
5 advantages of drawing the smoke down to the ground
6 in this immediate area.

7 My biggest concern is I'm down here two to
8 three times a week watching the PCB movement from
9 the harbor on to OMC's super fund project. I'm also
10 watching the power plant.

11 What is going to happen in the future with
12 this power plant? What are they doing right now
13 down here to solve the issues. There's construction
14 going on it. I'm sure there had to be permits
15 pulled for this construction.

16 I know there that there's monitoring wells
17 that they cleaned up around. I can't get any
18 information out of the people here because mum is
19 the word. You folks work for everybody here,
20 everybody in this state.

21 HEARING OFFICER STUDER: Have you filled the
22 out Freedom of Information Act requests?

23 MR. OHLINGER: No, I haven't. Now, my next
24 question is: You are the Illinois EPA. The reason

1 why the Crawford and the Fisk -- the reason why the
2 Crawford and the Fisk Power Plant was shut down was
3 because monitors on schools reported excessive
4 pollution, excessive over-the-limits of pollution.

5 Right now in the lake, there's mercury
6 coming out of this. You said it's from the air.
7 Right now BP is producing 20 times the allowable EPA
8 limit at the south end of the lake.

9 This lake is going right now through a
10 hypoxia conversion from the Quagga Mussel. The
11 Asian carp are at a barrier. I bark five or six
12 more barriers in the Illinois River. They work,
13 according to my cousin who works for NOAA, who is
14 locked in Alaska, wanted to come down for the Asian
15 carp, wanted to come down for the gulf.

16 I don't know what you folks do, but the
17 government told all scientists to shut their lips as
18 of BP. James Henson walked away from NASA, because
19 he didn't want everybody here to be false
20 represented.

21 I want to know what's going to take place
22 at this power plant. I want to know when it's going
23 to take place, because I'm going to be on your guys'
24 tails until I get solid answers for everybody here.

1 Because I signed an ethical agreement with
2 the Chimney Safety Institute of America to first
3 stop fires for people in their houses and to control
4 the fires. You have to have prevention first.

5 Coming and saying whatever it wrong with
6 the power plant, unless you address that in a timely
7 manner, nobody here is going to breathe easily. I
8 have bad asthma.

9 In Waukegan coal conspiracy two, you'll
10 see smoke come out of the chimney, lose its therms,
11 drop right back down to the ground. What is going
12 to be the issue of cleaning up the chimneys?
13 Because once you clean up the chimneys, you're not
14 going to have this pollution in every stream around
15 here.

16 HEARING OFFICER STUDER: I understand what
17 you're saying. I also understand the people that
18 are here are primarily water people and most of what
19 you have talked about are air emissions.

20 MR. OHLINGER: Fallout.

21 HEARING OFFICER STUDER: That's correct. While
22 it does have an impact on the lake, and I'll add a
23 substantial impact on the lake, this hearing is
24 regarding the water discharge. That's what we are

1 here for. If you have issues for comments on the
2 water discharge permit --

3 MR. OHLINGER: Where is the mercury coming
4 from? Have you pinpointed it? I will explain where
5 the mercury is coming from the water. Number one,
6 the coal pile. Number two, you have filtration
7 system, one for each boiler room, correct, for the
8 ash?

9 That's all you are taking out of the
10 emissions is the ash. You are also allowing this
11 polluting company to emit ammonia into the exhaust
12 of the system. Same thing with the diesel car
13 nowadays.

14 HEARING OFFICER STUDER: Okay, you're getting
15 into emissions again.

16 MR. OHLINGER: Right. But this also has -- let
17 me explain what these filters do out here. If you
18 go on the east side of the power plant, you have the
19 ash filters. You also have two large ash tanks.

20 When it rains, everything that goes on at
21 that power plant goes out the same way as the water
22 comes in and it goes back out.

23 Water quality first is what I came down
24 here for, and air quality first is what I came down

1 for. Those two things, if we don't solve the
2 problem, you're not going to have a lake out here.
3 You're not -- because what's going on is hypoxia.

4 Do you understand what that is? Oxygen
5 depletion. Okay? There's no fish left because of
6 the Quagga Mussel, because the zooplankton and the
7 phytoplankton in the lake is gone.

8 Now, if you don't have oxygen, how are you
9 going to clean up the lake? There is nothing that
10 is going to get cleaned up. Like the Chicago River,
11 that is creating such toxic emissions into the lake
12 now more than ever.

13 I really want you guys to do a better job
14 for my kid. I want you to do a better job for my
15 neighbor, because he's got cancer. A kid, a kid.

16 HEARING OFFICER STUDER: We appreciate that.
17 We've also gone double the time limit.

18 MR. OHLINGER: Okay. Well, let's all rally
19 together and solve this issue, because we all live
20 here. I'm not going to live here very much longer,
21 because I can't tolerate the ash. Sorry guys, but
22 I'm still be back to fight for you, because this is
23 just wrong. This is just wrong. Okay?

24 HEARING OFFICER STUDER: Thank you.

1 MR. OHLINGER: When are we going to get some
2 answers?

3 HEARING OFFICER STUDER: Give us specific
4 questions that you want answers for, the comment
5 period is open for 30 days. We've gone the time
6 limit.

7 MR. OHLINGER: Water quality, number one. I
8 don't drink in the lake anymore. I'm sorry, I
9 can't. Thank you, guys.

10 HEARING OFFICER STUDER: Charles Frank.

11 MR. FRANK: My name is Charles Frank, just like
12 it sounds. Charles F-r-a-n-k, and I come here as a
13 public citizen. I live in Highland Park. I've
14 lived on the north shore virtually across the street
15 or on Lake Michigan my whole life.

16 I currently own property on Lake Michigan
17 in Highland Park, so right out my backyard is the
18 lake. I am a member of the board of directors of
19 the Sierra Club nationally, but I'm here as a public
20 citizen. I'm not speaking on behalf the Sierra
21 Club.

22 First of all, I wanted to thank the
23 Environmental Protection Agency, Illinois
24 Environmental Protection Agency, for giving us the

1 opportunity to address the issues, and thank
2 goodness we live in the United States where we have
3 that opportunity.

4 I am not an engineer. I am not a
5 scientist, and many people already have spoken to
6 the technical aspects. I don't know the difference
7 between a milligram and a nanogram, so I'm not going
8 to try and reiterate the issues that are a concern
9 to more technical people.

10 I have had a long business career. I've
11 dealt with senior executives, many Fortune 500
12 companies, and I respect the comments and statement
13 that the representative from Midwest Gen made
14 earlier today, and I've heard many of those
15 statements.

16 I know he was doing his job and doing it
17 well, but one thing that I have heard on many
18 occasions over my life is in situations like this,
19 it is appropriate for business executives, and I
20 have been on the other side of the case of the
21 circumstances as well, to do their jobs and meet the
22 requirements of the law as they are put forward and
23 to insure they are meeting the regulations.

24 What concerns me is that the Environmental

1 Protection Agency is there to protect the
2 environment, protect us; and while businesses and
3 corporations, and I've run several myself, often
4 come forward and say, "We are meeting our
5 obligations. We are doing what's required by the
6 law, and if you change the law, if you change the
7 regulations, we can't comply with them" or "it's
8 going to cost lots of money."

9 I have to say that in every single
10 situation, and I've seen myriads of them, where the
11 regulations have been changed, I was in the car
12 industry, whether they were for safety or
13 environmental or public protection, and industry
14 complained about them.

15 Every single time they were raised,
16 industry met those regulations. Their businesses
17 did not fall apart, and the public was protected in
18 much better ways. You guys as well, when I say,
19 "you" I mean the Environmental Protection Agency,
20 both Illinois and United States EPA have raised
21 regulations.

22 Many of the industries have said, "Oh, We
23 can't meet them." They've always met them, and
24 they've done it well. Julie Morrison, our state

1 senator, came up here and said, "You have a
2 tremendous obligation." I say the same thing.

3 You have an obligation to protect us, not
4 to find a way to issue a permit to a business. You
5 have an obligation to protect us and our health.

6 I would have to say if, in fact, the
7 Environmental Protection Agency in Illinois was
8 doing that, we wouldn't have all these people here
9 with all of the technical data saying, "We are
10 afraid to drink the water, to go swimming, to let
11 our animals" -- I got several dogs that love to swim
12 in this lake, and have to worry about that.

13 You have a tremendous responsibility to
14 protect us. We've elected the officials and have
15 appointed you to do that. So, please do that.
16 Protect us.

17 If you need to, well, and you do need to,
18 raise the standards of that protection, so that we
19 can come here the next time and say, "Thank you.
20 Thank you for protecting us."

21 I wanted to add one more thing, and I say
22 this in a way to inspire and encourage you, not to
23 be the opposite. I function at a national level
24 with environment advocates, and I'm embarrassed when

1 I have to say from an environmental standpoint, that
2 I am from Illinois.

3 Because, unfortunately, the Illinois
4 Environmental Protection Agency does not have, and
5 I'm saying this is true or not true, I'm just saying
6 it does not have the best reputation nationally for
7 high standards and for enforcement of those
8 standards.

9 And I would hope that in the near future,
10 if what I'm saying has any impact on the agency and
11 on your own performance, that you will raise your
12 game and protect us as citizens, and essentially
13 what I would like to say is do your jobs.

14 Thank you very much.

15 HEARING OFFICER STUDER: Thank you, Mr. Frank.
16 Catherine Mary Markey.

17 MS. MARKEY: My last name is spelled Markey,
18 M-a-r-k-e-y. Can you hear me? I'm a teacher. I
19 taught in Waukegan, and I moved to California, and I
20 ran an environment book group. So, I've done my
21 homework. Okay?

22 I ran an environmental book group in Santa
23 Barbara Botanic Gardens, and I've read Bill
24 McKibben, Al Gore, Neal Wilson, John Moore, and am

1 many others, with people in Santa Barbara,
2 California, and like the man who spoke before me, I
3 did the opposite, though.

4 I defended the Environmental Protection
5 Agency against their criticisms that Illinois
6 basically is a thumbs down on environment, and I
7 came to your defense and I said, "I've been a person
8 who's lived near Lake Michigan for over 20 years.
9 My whole life I've spent within a mile of this shore
10 line east and north Chicago. I swim here now, now
11 that I'm back here, I swim." Okay?

12 So, here is my little speech: This coal
13 plant is in my backyard. I look out of my house a
14 block-and-a-half away from this coal plant, and it
15 is in my backyard. I can't go anywhere else and
16 say, "This coal plant is not in my backyard."

17 It is in my backyard. It might not be in
18 your backyard, but it's in my backyard and a lot of
19 other people's backyards here. Do you want a coal
20 in your backyard? Okay.

21 I want to say that the evidence is out.
22 I've read it. I've discussed it with people in
23 California. I've discussed it with people here.
24 Coal is the dirtiest form of energy, and you are

1 basically giving a nod approval to one of the
2 dirtiest forms of energy next to one of the largest
3 and only Great Lakes in the United States that we
4 can swim in.

5 We can drink that water. We can sail
6 there, and we can use that lake. You are giving a
7 nod approval to a stinking coal plant. Okay? When
8 I voted for Barack Obama, as a card-carrying
9 democrat, that I was going to get a clean energy
10 initiative.

11 What is this? This is a missed
12 opportunity to end coal, to end dirty coal, and to
13 start something new; and to clean up this lakefront
14 once and for all, this stinky polluted Waukegan
15 Harbor that everybody is disgusted by. Everywhere
16 you go around Chicago, this town has a bad name
17 because of Waukegan Harbor.

18 Please, clean this up. Let's go green,
19 and let's turn this situation around into a clean
20 energy initiative instead of renewing a permit for
21 an old stinky old coal plant.

22 HEARING OFFICER STUDER: Thank you, Ms. Markey.
23 Patrick Tufo. T-u-f-o is how it's spelled.

24 Tony Fuller.

1 MR. FULLER: Tony Fuller did you say?

2 HEARING OFFICER STUDER: For the record, it's
3 F-u-l-l-e-r.

4 MR. FULLER: Right. Thank you. My name is
5 Tony Fuller. I live in Chicago. Actually, I live
6 right by Montrose Harbor, where there's lots of
7 fishing and lots of people who rely on the quality
8 of the fish and the quality of the water that
9 supports the fish there.

10 So, I'm coming to ask that the IEPA uses
11 its power to insure the best available technology is
12 used to limit pollution, because once it's in the
13 lake, it's in the lake.

14 You know, even with the water circulating,
15 as it does, the pollution tends to sit around for
16 long periods of time and just concentrates.

17 So, also, I guess one question I had is in
18 terms of the amount of water discharge, is there a
19 reason why I guess from the studies, it looks like
20 it was from the permit one of the conditions is to
21 study the impact of the plume and do surveys on
22 that, is there a reason why that was not done before
23 this permit?

24 HEARING OFFICER STUDER: You're going to have

1 to speak up.

2 MR. LeCRONE: I was asking if he was talking
3 about thermal conditions? The thermal relief grant
4 was granted back in the '70s. It's been made part
5 of this permit since that time.

6 So, now, if we are to re-justify or renew
7 that type of relief, we're asking for a thermal
8 demonstration to be done so we can have them study
9 the fish species, the health of the lake, mixing for
10 temperature, that sort of thing, to give us the best
11 newest updated information going forward.

12 MR. FULLER: Thank you. My concern is that we
13 should not just kick the can down the road, you
14 know, continually. Degradation is not easy to
15 recover from.

16 We need to take action as soon as
17 possible. So, I encourage the IEPA to take action
18 to protect all of us as quickly as possible. Thank
19 you.

20 HEARING OFFICER STUDER: Thank you, Mr. Fuller.

21 MS. WILLIAMS: We agree with that, and that's
22 why it's really important that this permit has some
23 very rigid deadlines by which the different studies
24 have to be conducted, so that we can be sure that we

1 get as much information in a timely manner.

2 MR. FULLER: Thank you.

3 HEARING OFFICER STUDER: Bella Parra.

4 MS. PARRA: Hello. My name is Bella Parra,
5 B-e-l-l-a P-a-r-r-a. I'm here because I don't think
6 that it's right that all the animals in the water
7 don't get treated right because of the coal plants.

8 They get nothing that we get. We get
9 oxygen from the water, but they don't get to live in
10 the water. When they don't live in the water, they
11 die. I don't like that. I'm a big animal lover.
12 If I win the lottery, I want to buy 55 dogs and 35
13 cats. I just love animals.

14 I just don't think it's right of how the
15 animals in Lake Michigan are treated, and I don't
16 know, that's really all I have to say.

17 HEARING OFFICER STUDER: Thank you, Bella. We
18 appreciate your comments. Normally I say we don't
19 allow applause. I do make an exception at this one
20 time, if no one else in the room is offended.

21 Maria Race.

22 MS. RACE: Hi. Name is Maria Race, M-a-r-i-a
23 R-a-c-e. I'm with Midwest Generation. I just want
24 to make sure that a couple things that got mentioned

1 were clarified.

2 Fly ash is the whiter ash that goes into
3 our air pollution control equipment, and it is
4 disposed dry. There are no fly ash ponds at
5 Waukegan Station.

6 The mercury in the fly ash do not come
7 into contact with the water, and they are not part
8 of the wastewater discharge there. I just want to
9 make sure that was clear.

10 The bottom ash wastewater is recycled and
11 reused at the station. Any wastewater not recycled
12 is treated before discharge in our wastewater
13 treatment plant, and it consistently meets all of
14 its permit limits.

15 And there is a wastewater treatment plant,
16 which is an integral part of the Waukegan Station,
17 and it treats wastewater before it's discharged into
18 Lake Michigan, in order to make sure it does comply
19 with all the permit limits.

20 The other thing is someone had mentioned
21 earlier about the mercury monitoring that a
22 different test that was used than is currently, that
23 would currently be required with the next permit;
24 however, the methodology, the difference in the

1 measurement, isn't that great.

2 It goes right now -- the method that we're
3 using goes to 200 parts per trillion. The new
4 method would go to one part per trillion. So, the
5 differential is two orders of magnitude.

6 So, you know, it is a question of whether
7 there are any detections in there. We're not
8 expecting there to be. Because as I was saying,
9 there's no mercury expected to be in that waste.
10 That's all.

11 HEARING OFFICER STUDER: Thank you. I missed
12 one. We have Nels, if I can say it, is it
13 Leutwiler?

14 MR. LEUTWILER: Yes.

15 HEARING OFFICER STUDER: That is the last
16 person that has registered that they want to speak.

17 Following Mr. Leutwiler, I will allow
18 those that maybe have comments that didn't so
19 indicate they want to speak to be given an
20 opportunity to do so; and then if time allows, we'll
21 come back to those that had additional questions.

22 Go ahead, Mr. Leutwiler.

23 MR. LEUTWILER: My name is Nels Leutwiler.
24 That's L-e-u-t-w-i-l-e-r. I'm here representing

1 myself and my family, and I also would like to thank
2 you for allowing us this hearing and the opportunity
3 to present our views.

4 I grew up in Lake Forest 12 miles -- my
5 home was roughly 12 miles away from the plant. I
6 currently live in Lake Bluff, which is about eight
7 miles away right on the lake.

8 I spent my entire life swimming, boating,
9 fishing and most importantly, bathing and drinking
10 Lake Michigan water. I don't fish anymore because I
11 can't eat the fish, and it kind of defeats the
12 purpose.

13 I have a specific comment regarding
14 Condition 18, which requires monitoring of arsenic,
15 Zinc, cyanide, selenium and 12 other potentially
16 harmful substances; but it requires monitoring only
17 twice per year, and this seems really quite
18 inadequate.

19 But on a more general basis, my comments,
20 the Midwest Gen rep who spoke initially, predictably
21 noted that the plant employs 120 people. While I'm
22 sensitive to jobs, this outdated plant should not
23 get a free pass enabling it to threaten the health
24 of millions of residents who drink the water and eat

1 fish in the lake.

2 And there are plenty of clean air safer
3 alternatives to provide energy to this area. So, we
4 don't have to be bending over backwards, and I
5 implore you not to bend over backwards, to make it
6 possible for this outdated coal-fired power plant to
7 continue to operate in this area.

8 One final comment in response to what a
9 woman just noted, I believe she's probably from the
10 power plant, about coal ash. Although this is not a
11 water thing, this is an air thing, I have many
12 friends with boats in Waukegan Harbor right next
13 door to the coal plant.

14 They spend their entire summer washing
15 their boats repeatedly because they are covered with
16 coal ash. Thank you for the opportunity.

17 HEARING OFFICER STUDER: I was just handed a
18 card from someone that wants to speak. Barbara
19 Klipp, are you here?

20 MS. KLIPP: Yes.

21 HEARING OFFICER STUDER: Again, that is the
22 last card. After that, I will ask for a show of
23 hands of those who have not spoken this evening, but
24 maybe want to say something on the record. Come

1 forward. Thank you.

2 MS. KLIPP: My name is Barbara Klipp,
3 K-l-i-p-p. I'm speaking today on behalf of the
4 incinerator-free Lake County, but also as a private
5 citizen. That was my cute daughter that spoke
6 today.

7 Something she said really touched me
8 because she said people have the choice whether or
9 not to drink the water, and I suppose that's true
10 for some people, but that's not a choice I think we
11 should have to make.

12 I think that clean and safe drinking water
13 not only is the law, but it shouldn't be our default
14 position. I don't think we should have to fight to
15 have our water be clean and safe to drink. We
16 shouldn't have to take our time tonight.

17 I think the polluters should have to fight
18 to pollute, and that should be our default position.
19 A couple things that are troubling me, while I
20 understand Clean Water Act and Clean Air Act are
21 different laws and different bureaus by definition,
22 but to our health, there is no differentiation.

23 So, the mercury that we're breathing, for
24 example, the mercury we're drinking, there's a

1 cumulative effect for us, and our body does not make
2 that distinction, and there seems to be kind of a
3 loophole there.

4 With respect to the loopholes, Mrs. Owen
5 talked about the loopholes in the regulation for
6 coal plants. It came to my attention recently that
7 coal plants are attributed to 70 percent of the
8 water pollution and within, in all due respect, an
9 underfunded EPA, and loopholes that are allowing
10 them to emit more pollution than other industries.

11 That's very troubling to me, because I'm
12 concerned about their ability to enforce the permits
13 that are standing, let alone ones that are not. I'm
14 also concerned about, did I understand correctly,
15 that they had a water permit variance?

16 MS. WILLIAMS: What they're talking about there
17 is a provision in the Clean Water Act that says that
18 their thermal -- your permit for heat can differ --
19 sorry, the Section 315A of the Clean Water Act
20 allows a facility to show that they can have a
21 higher heat load, if they are able demonstrate that
22 there will be no harm to the balance of the
23 indigenous population of fish and wildlife in this
24 case in Lake Michigan.

1 So, in the 1970s, Midwest Generation and
2 then Com Ed came in and did studies that justified
3 at heat loads based on a specific ETU rate that
4 would protect the balance indigenous in Lake
5 Michigan wildlife. That is what we're asking them
6 in this next permit cycle to go back and re-justify
7 that.

8 MS. KLIPP: Okay. Well, I'm concerned about
9 the pattern I see here. It's my understanding the
10 company is in bankruptcy, and I'm concerned that
11 they are not operating with the best practices for
12 pollution control, and that may be maximizing the
13 profits to their creditors; but the burden really
14 falls on the people that are breathing the air and
15 water, in terms of health cost in increased
16 pollution.

17 That's troubling to me. It's troubling to
18 me as a mother just the quality of water my family
19 is drinking. Also, I think a few people mentioned
20 Lake Michigan is a tremendous resource. It is
21 90 percent right at the surface fresh water in the
22 United States Great Lakes.

23 Lake Michigan is the second largest Great
24 Lake by volume. With growing population, a static

1 that jumped out at me is that CMAC projection stated
2 the demand for Lake Michigan water is going to
3 exceed the available supply by the year 2050.

4 So, with that kind of a precious resource,
5 I'm concerned we're not protecting it as well and
6 doing our due diligent as much as we could. So,
7 that's all.

8 HEARING OFFICER STUDER: Thank you. We
9 appreciate your comments. That concludes those that
10 have registered.

11 Is there anyone here tonight that has not
12 spoken that would like to make comments on the
13 record? We've got one, two, three, four. If those
14 would stand up so I can get a count. One, two,
15 three, four.

16 We'll go ahead. Did I miss some one in
17 the back? Okay, five. I will go ahead, and we'll
18 go with number one. If you would come forward,
19 please state your name and spell your last name,
20 since we don't have anything written in front of us.

21 MR. VILLALOBOS: Absolutely. I'll keep my
22 voice up. My name is David Villalobos
23 V-i-l-l-a-l-o-b-o-s. I just want to make a quick
24 comment. I've been listening all night. It's been

1 great information.

2 The thing that struck me that maybe I want
3 to stand up and say something was the state
4 representative stating that they are in compliance
5 of the permits, and that's what this is all about is
6 the permits.

7 So, we had the opportunity to strengthen
8 that permit and make their compliance to be higher,
9 because everybody, from what I understand, in this
10 room is in agreement that it's not up to what it
11 should be.

12 So, I thought we have the opportunity to
13 make this more stringent for them so they can be
14 within compliance, but also keeping our health in
15 mind as well. So, I just want to make note of that.

16 That is what really struck my mind was the
17 fact their argument is we are in compliance with the
18 permit. So, let's keep it in compliance with the
19 permits absolutely, but make it stronger and make a
20 little bit more higher for our safety and health.
21 That's all.

22 HEARING OFFICER STUDER: Thank you. Who was
23 the second person? If you would come forward,
24 please. Thank you.

1 MR. WAGNER: My name is Mike Wagner. I'm a
2 resident. I grew up on the lake here. I worked on
3 one of the commercial fishing boats on this lake.

4 HEARING OFFICER STUDER: Is it W-a-g-n-e-r?

5 MR. WAGNER: Yes, it is. Dean, you made a
6 comment at the beginning of the night that through
7 the night that kind of concerned me is that the
8 decision is going to be based more on the legal
9 ramifications of the permit than on emotions.

10 I'm paraphrasing, but it was something
11 along those lines. I'm afraid and concerned that
12 people's impassioned pleas tonight are going to fall
13 on deaf ears because of that.

14 I looked liked at a number of things that
15 were available. I'm not pointing you out
16 personally, Mr. LeCrone, but you made numerous
17 references to working with available data. My
18 question is at what point do you determine that you
19 don't have enough data, and you're going to request
20 more?

21 MR. LeCRONE: We've done that in this permit.
22 We've done that in this permit, as an example,
23 Special Condition 18, which requires additional
24 monitoring for that list of metals.

1 We felt that more sampling data is
2 necessary for us to make a better informed decision
3 next time. So, that's just one example of something
4 that is more stringent in this permit that wasn't in
5 the last.

6 MR. WAGNER: That goes right along with what my
7 next question is. I'm sorry I don't remember if it
8 was Mr. Twait or Mr. Dunaway that made mention in
9 regards to mercury contamination that we don't
10 really know where it's coming from.

11 Why are you going to issue a permit until
12 you know where it's coming from? Find out where
13 it's coming from so that you know that you can put
14 in the restrictions within the permit to stop it.

15 At this point, you don't know what Midwest
16 Generation proved that it's not theirs, or you
17 determine exactly where it's coming from.

18 MS. WILLIAMS: I think we confused two issues.
19 Mr. Dunaway did talk about issues of ground water
20 contamination for certain parameters, but mercury
21 was not part of that. We haven't had any detections
22 of mercury.

23 MR. DUNAWAY: That's correct. There's been no
24 detection of mercury in the ground water monitoring

1 walls.

2 MR. WAGNER: Okay. Well, in regards to the
3 ground water, at that point maybe I miswrote this at
4 the time, but I could have swore that you said, I'll
5 stand corrected, at this the point there was issues
6 that we still didn't know where mercury
7 contamination was coming from.

8 MS. WILLIAMS: One thing I think would just
9 help a little bit to explain, I think it's been a
10 very technical discussion that we had with Jessica,
11 mercury is very dangerous.

12 It needs to be kept to very low levels,
13 and so the levels that the regulations require for
14 many years were lower than the technology to test
15 for them could even achieve.

16 So, up until now, the data we've got from
17 the company is there is no mercury at all, because
18 the tests that they were using said, "We've gone as
19 low as we can go and not found any." That is not
20 low enough. They need to test lower.

21 That is what this permit is going to
22 require give us information to find out there isn't
23 any mercury at all.

24 MR. WAGNER: How often do you perform audits of

1 their data?

2 MR. LeCRONE: Live audits?

3 MR. WAGNER: I guess the question, without
4 trying to sound too cynical or whatever, we're
5 asking the bank robber to guard the bank, when you
6 ask them to do their own testing and submit their
7 own information.

8 How do you know how accurate that is, and
9 how often do you do a double check and just audit
10 their information, to make sure that you are getting
11 the correct information?

12 HEARING OFFICER STUDER: Are you asking how
13 often we collect samples from their effluent pipe
14 and have that tested?

15 MR. WAGNER: To compare to what they say
16 they're giving you, yes.

17 MR. RABINS: The field office does that. I
18 don't think any of us on the panel know exactly when
19 they go out. They do their own sampling.

20 MR. WAGNER: How often?

21 MR. RABINS: That's what I'm saying, we don't
22 have that information right here at the hearing, but
23 they do so self-report; and then the EPA personnel
24 will go out and do their own samples, and that's

1 analyzed. You know, if the company is not sampling,
2 and they are not analyzing, we are.

3 MR. LeCRONE: We have compliance assurance
4 section. Their job is to keep track of reported
5 effluent discharge.

6 MR. WAGNER: Have there been reported
7 differences between what they report and what your
8 field staff has come up with?

9 MR. RABINS: We can look that up.

10 MR. WAGNER: All right. Thank you.

11 HEARING OFFICER STUDER: Thank you. I think
12 we're up to number three of the five. If you would
13 go ahead and state your name, and spell your last
14 name for the record, please.

15 MS. MOSETICK: My name is Sandy Mosetick
16 M-o-s-e-t-i-c-k. I live in Vernon Hills. I came
17 here just as a concerned citizen.

18 HEARING OFFICER STUDER: Can we all hear in the
19 back?

20 MS. MOSETICK: I have two questions. By law,
21 if the environmental or the Clean Water Act allows
22 loopholes for existing coal plants, unless they
23 rebuild to a certain degree, if they let them be
24 grandfathered in under old laws, is that still true?

1 Is there still that loophole; and if so,
2 how far can you go with your new regulations to
3 require tighter controls on emissions?

4 Because just like someone else just
5 mentioned, the lady from the power plant said that
6 they are in compliance with their current permit,
7 and so --

8 HEARING OFFICER STUDER: You mentioned the word
9 "emissions," and emissions --

10 MS. MOSETICK: Well, whatever you call the
11 water.

12 HEARING OFFICER STUDER: The water discharge.

13 MS. MOSETICK: The water discharge, right.

14 HEARING OFFICER STUDER: Okay. Are there
15 grandfathering clauses?

16 MR. LeCRONE: No, I think you may be confusing
17 some differences in the Clean Air Act Rules and
18 Water Rules. There isn't anything specific about,
19 that I'm aware of, about grandfather dates for
20 upgrades on the water pollution side.

21 MS. MOSETICK: Okay.

22 MR. RABINS: There are new performance
23 standards, if they're built after a certain date.

24 MR. LeCRONE: Back when the rule was

1 promulgated in '80 or '82.

2 MS. MOSETICK: My basic question is: Are you
3 allowed, based on science and health standards, to
4 set good standards to be the new standards for the
5 new permit to be as stringent as they need to be to
6 protect the health of the communities?

7 MS. WILLIAMS: I don't know if I'm the best
8 person to answer, but there are two types of ways
9 you regulate water. One is the technology, which is
10 the permit writers will look at each cycle as
11 whether they are meeting the technology
12 requirements, and the other is Scott's job.

13 MR. TWAIT: We also look at the Water Quality
14 Standards, and they have to meet the Water Quality
15 Standards.

16 MS. MOSETICK: So --

17 MS. WILLIAMS: Regardless of technology, we
18 always have to insure compliance for discharge.

19 MS. MOSETICK: You can set as stringent as
20 standards as you are allowed to under, you know,
21 given the current technology for monitoring. You're
22 not limited on how strictly you can regulate them in
23 the new permit.

24 MR. RABINS: The legislature passes standards.

1 That is what we impose. We don't derive new numbers
2 each time.

3 MS. MOSETICK: But you are not limited to use
4 those standards that are passed.

5 MR. RABINS: We try and use the most stringent
6 standard.

7 MS. MOSETICK: Then my second question is: I
8 know other people were talking about the mercury in
9 the air getting into the water; and so I was
10 wondering I knew that the water -- the Clean Water
11 Act regulates discharge into the water.

12 Even if you can prove that it's being
13 discharged into the air and ending up in the water,
14 then why do you shut down the person who is talking
15 about tons of mercury coming from that very power
16 plant and getting into the water?

17 So, who is protecting the water from that
18 discharge?

19 MR. LeCRONE: That would be covered by their
20 Clean Air Act permit, because it's an emission from
21 the combustion process.

22 MS. MOSETICK: But what if it's not being
23 covered by that? Why doesn't the Clean Water Act
24 use some kind of control? What's the difference

1 between pumping, you know, waste, solid or liquid
2 waste into a body of water, or pumping it into the
3 air, which then because of the laws of physics, is
4 certainly going into the water? That was my
5 question.

6 MS. WILLIAMS: It is a very good question.

7 MS. MOSETICK: Thank you. So, I think --

8 MS. WILLIAMS: There are lawyers fighting over
9 that question.

10 MS. MOSETICK: Okay. So, like, my final, like,
11 little, it's not really a question about the Clean
12 Water Act, but how do you -- how do we see the
13 answers to our questions when, you know, like, it's
14 in the record?

15 Now, how do I go back and look and see how
16 you did you answer that question?

17 MR. RABINS: We will send you a responsiveness
18 summary.

19 HEARING OFFICER STUDER: In the beginning, when
20 I went through the long opening statement, I said
21 there would be a responsiveness summary prepared;
22 and in that responsiveness summary, we go through
23 both the transcript and the written comments that
24 have been submitted in the record, take out the

1 issues and answer those issues.

2 Normally, they are written in an issue
3 response type format, and that will be made
4 available following the close of the comment period
5 and when a file decision is reached in this matter.

6 MS. MOSETICK: Thank you.

7 HEARING OFFICER STUDER: Thank you. I think we
8 are up to number four. I hate to reduce people to
9 being called by numbers, but I can't give the names.

10 MR. DUBANIEWICZ: It's okay by me. Joe
11 Dubaniewicz, D-u-b-a-n-i-e-w-i-c-z. Citizen of
12 Libertyville, but I work in Waukegan.

13 Maybe many years ago, I worked in a brass
14 mill, and we cleaned the brass with chemicals that
15 were called cleaning solution. It's a combination
16 of nitric acid, sulphuric acid and hexavalent chrome
17 yeah, hexavalent chrome.

18 I was just wondering, when looking through
19 the Special Condition No. 16, it says here, "There
20 shall be no discharge of complex metal-bearing waste
21 streams and associated rinses from chemical metal
22 cleaning, unless this permit has been modified to
23 include the new discharge.

24 Just a point of order, I'm just trying to

1 figure out what the complex metal bearing waste
2 streams are. If it's complex metal, does that mean
3 hexavalent chrome and waste streams? What I'm
4 trying to relate is whether these waste streams are
5 the same as I used to encounter many years ago.

6 MR. RABINS: Okay. So, chemical metal, they
7 clean equipment with chemicals or no chemicals, like
8 the boilers, the boilers tubes; and if they use
9 chemicals, there's regulations for it. If they
10 don't use chemicals, there's regulations for it.

11 So, they have not applied a requested
12 discharge chemical metal cleaning waste, so it's
13 probed in the permit. It's prohibited. It doesn't
14 allow that discharge of waste from that activity.

15 MR. DUBANIEWICZ: So, this permit does not
16 allow that discharge?

17 MR. RABINS: It doesn't allow chemical metal
18 cleaning waste. That's defined in the steam
19 electric generating regulations. So, there's a
20 specific definition of what that is. It's in there.

21 MR. DUBANIEWICZ: Okay. Am I incorrect
22 thinking that was hexavalent chrome? It says
23 complex metal-bearing waste streams. Do you happen
24 to know?

1 MR. RABINS: I don't know exactly. Like I
2 said, they use chemicals to clean the metal.

3 MR. LeCRONE: Do you know what type of metal it
4 is being cleaned? There are copper tubes, alloys,
5 heat exchange boilers.

6 MR. DUBANIEWICZ: As I said, it was a long time
7 ago, but it was a brass mill, and we cleaned tubes
8 and brass copper tubing. It started out as
9 oxidized, dip it into the tank, and it came out
10 clean.

11 Then you dipped it into another tank that
12 was a rinse tank. The rinse tank went out to the
13 river. Back in the day, hexavalent chrome turned
14 the water orange in color; and after it's spent,
15 used several times, it turns green. That's going
16 from complex chrome to simple chrome. That's the
17 process that goes on.

18 Well, over the years at this brass plant,
19 the effluent from the plant went right out to the
20 river, the Pequonneck River in Bridgeport,
21 Connecticut, and it turned the river orange, and the
22 river flowed out into Long Island Sound.

23 Well, the EPA got involved and decided to
24 clean -- force the company to build a water

1 treatment plant, so they did; and I operated that
2 water treatment plant, and checked all the results
3 of the cleaning.

4 And it came out really clean water, but
5 the real test was whether or not the water coming
6 out was drinkable. The president of the company had
7 me go out and get a glass of water and actually
8 drink it.

9 So, my question really is: Where does the
10 water that services the plant, does it come from
11 Lake Michigan, or does it come from bottled water or
12 something like that?

13 MR. LeCRONE: The drinking water at the plant?

14 MR. RABINS: They withdraw the water from Lake
15 Michigan, okay, for everything. They withdraw their
16 water from Lake Michigan for condenser cooling,
17 house service water, and boiler feed water.

18 MR. DUBANIEWICZ: Okay. So, they consider the
19 water that they expend out of the treatment plant as
20 being good enough to drink? I'm guessing.

21 MR. RABINS: I've never seen them make that
22 claim, and we haven't made that claim.

23 MR. DUBANIEWICZ: Okay. I would like to see a
24 test performed just to have the occupants of the

1 plant drink the water, that's all, that comes out of
2 the effluent.

3 HEARING OFFICER STUDER: We will put in the
4 responsiveness summary where their potable water
5 source is.

6 MR. DUBANIEWICZ: Thank you.

7 HEARING OFFICER STUDER: Okay. We've gone
8 through four. We've got a fifth person that had
9 indicated they wanted to speak and hadn't
10 registered. Yes?

11 MS. ORTIZ: Good evening, everyone. My name is
12 Dulce Cany Ortiz, D as in David, u-l-c-e, Candy,
13 C-a-n-d-y, Ortiz, O-r-t, as Tom, i-z.

14 So, first off, I just want to thank you
15 for coming today, and listening to the residents of
16 the City of Waukegan. I, myself, am a resident; and
17 I'm here not as an expert, not as someone that
18 belongs to the Sierra Club, I'm here as a mom.

19 I have an 11-year-old son. His name is
20 Ivan Ortiz, and he plays football and basketball and
21 boxing; and the reason I'm here is because
22 everything that I do for my community, everything
23 that I hold dear and near to my heart is because of
24 him, because I want to make sure that when I do

1 leave this earth, that he has, you know, a great
2 environment, a beautiful city to live in, and the
3 city of Waukegan is a very beautiful city.

4 I mean, I am in love with it, and we have
5 a great lakefront, and I just want to make sure that
6 as Senator Morrison stated, that you do your job to
7 protect us, you know, the public.

8 I just want to end with this, you know,
9 make sure when you do make your decision, you not
10 only think about your children, but you think about
11 your children's children; and after you make that
12 decision, that you're able to sleep at night, and
13 that there's peace in your heart and in your mind.
14 Thank you.

15 HEARING OFFICER STUDER: Thank you. Is there
16 anyone in the room that has not spoken this evening
17 that would like to make comments on the record?
18 Okay. Let the record indicate no one raised their
19 hand.

20 We have two people that have spoken
21 earlier that have additional questions or comments,
22 Jessica and Cindy. Is there anyone else that has
23 spoken earlier that has additional comments? We got
24 one, two, three, four, five.

1 I'm going to put a time limit of about 12
2 minutes max on the remaining four people that spoke,
3 and then we will adjourn the hearing after those
4 four people have been allowed to make comments.

5 It was Jim, and what was your name, sir?

6 MR. CRAIG: I'm Evan. That's Jim there.

7 HEARING OFFICER STUDER: That's Jim, okay.
8 Yes. We'll start with Cindy.

9 MS. SKRUKRUD: Thank you. I think I can be
10 fairly quick. My first question is: What type of
11 waste water treatment is applied to the effluent
12 from the ash ponds before discharge?

13 I ask this question because Ms. Race said
14 there was a wastewater treatment plant at the plant,
15 but in the IEPA's 2011 Compliance and Evaluation
16 Inspection Report, they say this about the treatment
17 plant, quote, "The treatment plant consists of a
18 wastewater equalization tank, flash mixed tank, two
19 clarifiers with alum and polymer addition
20 capabilities, metal cleaning unit sledge
21 equalization tanks and vacuum filters."

22 And then they go on to say, "The only
23 units that have been in use the past several years
24 are the clarifiers primarily for settling."

1 My question is: Does the treatment
2 consist solely of settling clarifiers?

3 MR. RABINS: No, it more represented what you
4 read first, your initial statement.

5 MS. SKRUKRUD: According to the IEPA's
6 inspection, that is not all those key parts of the
7 wastewater plant are not being used.

8 My next question is: Have any studies
9 been conducted regarding the hydrologic connection
10 between the ground water affected by the site and
11 Lake Michigan and/or other surface waters?

12 MR.DUNAWAY: No, there hasn't.

13 MS. SKRUKRUD: Okay, thank you. Then my last
14 questions are about the coal pile. In the draft
15 permit released in December 2011, mercury monitoring
16 put a limit on total suspended solids was placed on
17 the one million gallon per day coal pile runoff.

18 Why was that condition removed from the
19 latest draft permit?

20 MR. RABINS: Because the coal pile runoff
21 reports the wastewater treatment plant, which limits
22 solids, so it didn't make sense to make a limit
23 prior to treating it.

24 MS. SKRUKRUD: Okay. So, in my mind, one

1 million gallons per day is a lot of water. Are
2 there dry weather discharges coming off of the coal
3 pile?

4 The 2011 inspection says the coal piles
5 are sprayed with a protective crust. So, is part of
6 the runoff from the coal pile because they are
7 spraying it?

8 MR. RABINS: They informed us that there are no
9 dry weather discharge from the coal pile. That is
10 what we have from them.

11 MS. SKRUKRUD: Okay, thank you. But I still
12 think a million gallons per day is a lot of water,
13 and Illinois is an agricultural state. We know how
14 to build very big silos. You see them all
15 throughout central Illinois.

16 So, we can save that million gallons a day
17 of polluted coal pile runoff that goes into Lake
18 Michigan, if you were to require them to store their
19 coal in silos. That would also solve the problem of
20 any coal dust that impacts the community and the
21 lake. And that's it for me. Thank you.

22 HEARING OFFICER STUDER: Thank you, Cindy.
23 Jessica?

24 MS. DEXTER: I'm going to ask a couple more

1 questions about coal piles, just to follow up on
2 what Cindy said. There are coal piles you say. How
3 close are they to Lake Michigan, or the canal that
4 is hydrologically connected to Lake Michigan, do you
5 know?

6 MR. RABINS: I have to look that up.

7 MS. DEXTER: Is it possible for coal to bypass
8 the permitted outfall and discharge coal directly
9 into the lake or the canal?

10 MR. RABINS: I'll have to get back to you.

11 MS. DEXTER: I'll note that as I was going
12 through documents, I found that there was an
13 incident in 2009 you might want to look at where the
14 facility discharged 90,000 cubic yards of coal into
15 the canal after a storm.

16 I would appreciate it if you would look
17 into what practices can be implemented and put in
18 the permit to make sure that there is containment
19 and prevent that kind of discharge in the future
20 that is an illegal discharge outside the outfall.

21 MR. RABINS: To answer your earlier question,
22 they said all runoff is collected in the stations
23 and treated prior to discharge. There is no bypass
24 or conversion around the wastewater treatment plant

1 that we're aware of.

2 MR. LeCRONE: The other incident was in 2009?

3 MS. DEXTER: 2009, there is an inspection
4 report that I found in the FOIA request. It seemed
5 like a very large discharge of actual coal into the
6 water. I think there should be some conditions in
7 the permit to prevent that from happening in the
8 future.

9 I'm also going to get back to the chemical
10 metal cleaning waste issue. This is probably more
11 of a statement at this point. You talked about it a
12 few minutes ago.

13 As I understand it, Midwest Generation has
14 withdrawn its prior request to discharge chemical
15 metal cleaning waste under this NPDES permit, but
16 the draft permit still references -- the draft
17 permit and the fact sheets in various places still
18 references chemical metal cleaning waste.

19 I hope you'll take a look at that and
20 review the recommendations to the chemical metal
21 cleaning waste that are still in the 2003 draft
22 permit.

23 I'm going to move on to a question about
24 PCBs. This segment of Lake Michigan is identified

1 as imperative for PCBs. Are there transformers
2 containing PCBs on the site; and if so, do you know
3 how they are stored?

4 MR. RABINS: There's a statement of fact sheet.
5 It says there are four PCBs transformers at the
6 facility, each located inside a secured and covered
7 building constructed with its own secondary
8 containment system and located at least 1,000 feet
9 from the nearest outdoor open renovation.

10 We do prohibit the discharge of PCBs in
11 permit as required by federal regulations, and so
12 it's prohibited at this point.

13 MS. DEXTER: Do you know whether transformer
14 oil contains PCBs? Is that part of what the
15 transformers contain?

16 MR. LeCRONE: Yes, transformer oil is contained
17 in that.

18 UNKOWN SPEAKER: I'm sorry, what was that
19 answer?

20 MR. RABINS: Yes, the oil does contain PCBs.

21 MS. DEXTER: I just want to point out on the
22 record in 1998, there was a fire that resulted in
23 12,000 -- sorry, 1200 gallons of transformer oil
24 being discharged into the canal, and I ask you to

1 take a look at whether the secondary treatment
2 facility or secondary -- I'm sorry, secondary
3 containment that is around these right now is
4 adequate to prevent that kind of discharge if
5 there's a fire or other accident in that building.

6 Can you explain why the monthly average
7 effluent limitation for copper on outfall G1 changed
8 from .5 milligrams per liter in the 2011 permit, to
9 1 milligram per liter the 2013 draft permit?

10 MR. RABINS: You said G2?

11 MS. DEXTER: G1.

12 MR. RABINS: G1 restricts or limits the
13 discharge to the federal limitations for steam
14 electric generating facilities. That waste stream
15 G01 also reports, which is non-chemical metical
16 waste, also reports the wastewater treatment plant
17 and is further treated after that monitoring point.

18 MS. DEXTER: Which is the monthly average under
19 the federal guidelines, is it the .5 or 1?

20 MR. RABINS: It's 1 for the monthly average. 1
21 milligram per liter monthly average, and 1 milligram
22 per liter stated max.

23 MS. DEXTER: Do you know how the .5 milligrams
24 per liter got in the 2011 permit, its draft?

1 MR. RABINS: The draft permit?

2 MS. DEXTER: Yes.

3 MR. RABINS: No. That is the state effluent
4 standard.

5 MS. DEXTER: Has Midwest Generation indicated
6 that it's unable to meet PH limits in outfall 1?

7 MR. RABINS: Yes, they've requested a
8 compliance schedule. The limits were reduced in
9 this I think with the water outfall standard. It is
10 restricted 7.0 to 9.0 in standard units.

11 We proposed -- they have requested
12 compliance scheduling so we have proposed in the
13 permit that they get 12 months to meet that limit,
14 if they submit a file construction permit
15 application for wastewater treatment estimate for
16 PH.

17 They're only going to get it if they need
18 it. So, if they don't file it -- if they don't come
19 forward with an application for what they are going
20 to do to meet it, they don't get the schedule.

21 MS. DEXTER: How does one normally treat for
22 PH, what's the process?

23 MR. LeCRONE: Chemical addition, either an acid
24 base to neutralize the PH.

1 MR. RABINS: CO2 has also been used in some
2 facilities.

3 MS. DEXTER: Is it a particularly difficult
4 chemical to treat for? Chemical is maybe not the
5 right word.

6 MR. LeCRONE: It's not technically difficult.
7 It's difficult in terms of factor how much water
8 you're having to adjust.

9 MR. RABINS: Let me also add, if they have to
10 install equipment, then you are not going to have it
11 on site when it's signed. They would need some time
12 to do that. It is not just a matter of them going
13 and doing it, if they have to install an injector
14 systems.

15 MS. DEXTER: What is the basis of IEPA's
16 determination as stated in Special Condition 14 that
17 the effluent limits on outfall 001 constitute
18 BAT/BCT for storm water?

19 MR. RABINS: We say this when they are treating
20 storm water as if it was processed water. The
21 alternate is if they don't treat their storm water
22 so it overflows, or it just runs off, they would
23 have a storm water pollution prevention plan.

24 In this case, they are treating all their

1 water. They are meeting effluent limits for it.
2 So, this is a more stringent requirement than having
3 them develop a prevention plan.

4 MS. DEXTER: So, all storm water on site is
5 treated at the wastewater treatment plant?

6 MR. RABINS: That's the information we have.

7 MS. DEXTER: Do you know what treatment those
8 discharges receive?

9 MR. RABINS: Well, it says, I mean, settling
10 and oil removal.

11 HEARING OFFICER STUDER: How many more
12 questions do you have?

13 MS. DEXTER: I think just one. I'm actually
14 not sure if Cindy covered this. Can you explain why
15 the proposed internal outfall H01 for coal panel
16 discharges was eliminated in this version of the
17 draft permit?

18 MR. RABINS: We did that because the coal power
19 runoff reports the wastewater treatment system,
20 which treats for solids. So, it didn't make much
21 sense to say, "You have to meet a solid limit prior
22 to going to the wastewater treatment system." So,
23 we removed it.

24 MS. DEXTER: And then I just want to confirm

1 that the comments we filed January 2012 on the 2011
2 draft permit will still be part of this record for
3 the permit issuance?

4 HEARING OFFICER STUDER: What was your
5 question?

6 MS. DEXTER: Whether or not the comments that
7 -- we've now filed two sets of comments on these
8 things, and I referenced the prior comments in my
9 earlier comments. I just want to make sure they are
10 all part of the same record.

11 HEARING OFFICER STUDER: The first time they
12 met with public notice where the hearing was also
13 requested, yes, those are part of the record.

14 MS. DEXTER: I just want to make sure, or I'll
15 send them again.

16 HEARING OFFICER STUDER: It's an exhibit in
17 this record.

18 MS. DEXTER: Thank you so much.

19 HEARING OFFICER STUDER: Thank you.

20 MR. CRAIG: This is Evan again, Craig,
21 C-r-a-i-g. So, I kind of like to pick up where I
22 left off. I'm curious about the mercury monitoring.

23 The answer that you gave me that you
24 intend to issue a permit that is both perspective

1 and precautionary is troubling that you're going to
2 do experimental chemistry on Lake Michigan is
3 troubling, and it has been troubling.

4 So, I'm just wondering at the beginning
5 there were many laws cited. Is there a law that
6 supports that by the Illinois EPA to approve permits
7 that may impair or continue our waters to be
8 impaired? Is that legal?

9 MS. WILLIAMS: I don't think anyone said that.
10 I think you are mischaracterizing what I was trying
11 to say was just maybe that was said by Darin, we do
12 the best we can with the information we have;
13 and then we also go back afterwards and review new
14 information, to make sure those earlier decisions
15 were accurate.

16 I don't think anyone up here suggests
17 we're doing chemical experiments on Lake Michigan.

18 MR. CRAIG: And in the absence of data -- I'm
19 sorry.

20 MS. WILLIAMS: I was going to say the law
21 requires to issue a permit if the applicant
22 demonstrates they meet the statute. That is our
23 obligation, and it's part of this analysis to see if
24 that's been met.

1 MR. CRAIG: Okay. Maybe that's why we heard a
2 lot of comments about what part of the law protects
3 us. Because that's why I'm asking, you know, where
4 is the precautionary posture from the Agency that
5 says we can go beyond the requirements to protect
6 the public? Where is the precautionary?

7 Is that discretion? Does that happen? Is
8 it a requirement in the law, or do we have to pass
9 new laws?

10 MR. TWAIT: The Water Quality Standards have a
11 safety factor built into them; and, so, that's where
12 a precautionary instance is.

13 MR. CRAIG: The new ones or the old ones?

14 MR. TWAIT: All of our Water Quality Standards.

15 MR. CRAIG: Because the newest ones just came
16 out and said the old ones weren't stringent enough.

17 MR. TWAIT: When you have Water Quality
18 Standards, you base those on the information that
19 you have and use a safety factor.

20 MR. CRAIG: Okay.

21 MR. TWAIT: So, as new information comes about,
22 we change that when it's necessary.

23 MR. CRAIG: I wasn't trying to twist your
24 words. You said you used Both. So, I was trying to

1 understand that. Okay.

2 I think you understand while you didn't
3 use a big enough safety margin because now U.S. EPA
4 is saying we have need to tighten them up.

5 MS. WILLIAMS: There is no new Water Quality
6 Standards that we're talking about. He's talking of
7 the Lake Michigan standards are the same.

8 MR. CRAIG: I'm not an expert on that, but I
9 thought these restrictions on pollutants were being
10 tightened up. Maybe I'm wrong.

11 MR. LeCRONE: There is a difference between
12 Water Quality Standards and Technology Standards,
13 and what U.S. EPA is updating is our Technology Base
14 effluent Limitation Guidelines, which is different
15 than any extreme Water Quality Standard.

16 There is two different sets of standards,
17 actually three, State Water Quality Standards, State
18 Technology Based effluent Limits and then Federal
19 Categorical Standards that we consider from a
20 facility like this, and we apply the more stringent
21 of the three standards. That's what goes into
22 determining a permit limit.

23 MR. CRAIG: Thank you. That helps clarify
24 that, I think, except you are not enforcing

1 available control technology on this plant. So,
2 that doesn't -- anyhow.

3 The other thing I wanted to ask you, and
4 point out is that I think that Midwest Generation
5 has requested a new permit several times from the
6 Illinois EPA and the Illinois EPA has not granted a
7 new permit; is that correct? I thought they've been
8 operating without a permit.

9 MR. LeCRONE: They're operating under a permit
10 that expired in 2005, I believe, and has been
11 administratively continued since that point. That's
12 a process that is allowed under the regulations if
13 they file a timely reapplication. It has been in
14 the works for several years, that's true.

15 MR. CRAIG: Okay. So, I know we're not
16 supposed to talk about air pollution, but we are --
17 they have promised to install more air pollution
18 control equipment I think by 2014. The conservation
19 of fill law says that whenever you get one thing
20 cleaner, you get another thing dirtier, and you
21 don't necessarily get the first thing clean.

22 The thing that is going to get dirtier,
23 when they clean up the air, is the water. So, I
24 wonder whether you're going to revisit this permit

1 when they finished those controls, or does this go
2 on for another five years or something beyond that?

3 MR. RABINS: If they wanted the discharge
4 scrubber wastewater, they're going to have to seek a
5 permit modification. They'll go through the same
6 draft permit, and there will be a public notice
7 opportunity for comment.

8 People can request a hearing if they want,
9 and we'll take it under consideration. There's not
10 going to be -- it won't just be added without any
11 public presentation.

12 MR. LeCRONE: That would apply to any new waste
13 stream they propose to discharge, whether it be air
14 emission control, or some other process that will
15 result in new air stream or increased loading that
16 is not currently permitted. It would require a
17 modification of the permit, and it would go through
18 the same public notice process that Jaime used.

19 MR. RABINS: I was also going to say when you
20 said they weren't subject to the best available
21 technology. There is best technology available
22 limits, and they are being held to those standards
23 for steam electric generator facilities.

24 MR. CRAIG: As of 2013 or as of 1984, whatever

1 it was?

2 MR. RABINS: It was when they passed the
3 effluent guideline. It is not a yearly -- you know,
4 they don't revisit it every year. I think it was
5 last done in '82.

6 MR. LeCRONE: I believe that is right.

7 MR. RABINS: Those are the best available
8 technology numbers, and they are being held to them.
9 This permit requires compliance with those numbers.

10 MR. CRAIG: Well, that's interesting, since
11 they're not doing them, it seems that they can do
12 better then. Okay.

13 So, the last thing I wanted to ask you
14 about is this business of monitoring because I don't
15 know the letter in detail of the proposed permit,
16 but I think I understand that they are going to be
17 doing grab sampling and testing for mercury twice a
18 year.

19 MR. RABINS: At 001, they have one discharge
20 point at 001. They are going to have to monitor
21 mercury once a month for a year, and that's going to
22 go quarterly thereafter.

23 Yes, once a quarter. They're going do
24 quarterly thereafter. We need 10 to 12 to do a

1 reasonable potential analysis. We're going to have
2 enough data after about a year.

3 MR. CRAIG: In my mind, you know, I go out and
4 I sample streams, and one day the stream looks like
5 chocolate milk because they build a Wal-Mart. The
6 next week things have improved a bit, and it gets
7 clear enough that a fish might live in it.

8 So, I just wonder who's going to choose
9 the timing of these grab samples, or is this going
10 to be a sample when the plant is running on low or
11 on high, or after we've had rain, or when they are
12 operating the full treatment plant?

13 It seems there are so many variables; and,
14 so, then you can give me more assurance that's it's
15 going a representative sample. It seems like
16 continuous monitoring isn't too much to ask here.

17 MR. RABINS: They can't do a composite for the
18 mercury sample to test it.

19 MR. LeCRONE: Continuous monitoring for mercury
20 is not technically feasible. It is a complicated
21 lab procedure because it's such a sensitive test
22 method. There are a limited number of labs that
23 perform the test. It's a difficult process with
24 very specific sample collection procedures.

1 So, it's not something like PH or residual
2 chlorine, or something they could have a continuous
3 analyzer to analyze that in that manner. It has to
4 be by grab sample with very specific collection
5 processes and sent to a lab for a very complicated
6 analytic procedure.

7 HEARING OFFICER STUDER: We've come close to
8 going to the time limit also.

9 MR. CRAIG: Thank you very much.

10 HEARING OFFICER STUDER: The last person was
11 Jim Bland. Following Mr. Bland, we'll be adjourning
12 this hearing.

13 MR. BLAND: A simple question. Given the fact
14 that they are doing dry processing of fly ash and
15 mercury residual, can we presume there is a permit
16 for that?

17 MS. WILLIAMS: We have to get back to you on
18 that. We have to talk to a manager with that to
19 see.

20 MR. BLAND: Again, if it's a dry process, and
21 they store it on site for, what, longer than six
22 months, then they've got a RCRA requirement.

23 Taking a look at the permits they have, I
24 haven't seen any acknowledgment of that. One last

1 comment is apart from the analytic problems of
2 testing for mercury, you also have a field problem
3 for testing for mercury.

4 I'll encourage people to take a look at
5 the website for USGS, which specializes in all
6 business of dealing with nanogram types of samples
7 for mercury. It means going out in clean suits,
8 specialized boats, specialized equipment is required
9 in order to be able to do that.

10 So, it's a requirement for the analytic
11 test, but there is no requirement for the ambient
12 monitoring. I would encourage you to include that.
13 When I write up my comments, I'll include that with
14 that.

15 HEARING OFFICER STUDER: Very good. I thank
16 everyone for their attendance here tonight. You've
17 all been very patient.

18 I advise everyone the comment period is
19 open until the 30th of August. We'll be accepting
20 written comments until that time. This hearing is
21 adjourned.

22 (WHICH WERE ALL THE PROCEEDINGS HAD.)
23
24

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)

4 PAMELA A. MARZULLO, C.S.R., being first duly sworn,
5 says that she is a court reporter doing business in the city
6 of Chicago; that she reported in shorthand the proceedings
7 had at the Proceedings of said cause; that the foregoing is
8 a true and correct transcript of her shorthand notes, so
9 taken as aforesaid, and contains all the proceedings of said
10 hearing.

11
12 PAMELA A. MARZULLO
License No. 084-001624

13
14 SUBSCRIBED AND SWORN TO
15 before me this 14th day
of August, 2013.

16 Notary Public
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